

HOUSE BILL REPORT

2SSB 5610

As Reported by House Committee On: Public Safety

Title: An act relating to the sentencing of persons under the age of twenty-one years at the time of the commission of a crime.

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 History:

Committee Activity:

Public Safety: 2/15/18, 2/22/18 [DPA].

Brief Summary of Second Substitute Bill (As Amended by Committee)

- Creates a mitigating circumstance upon which a court may base a downward adjustment to a sentence for felony offenses committed by minors sentenced in adult court.
- Creates statutory authority for the court to adjust sentences and enhancements for felony offenses committed by minors sentenced in adult court.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Kelly Leonard (786-7147).

Background:

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.

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 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 nonexhaustive 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. There are several types of enhancements authorized in statute, including, for example, using a firearm and deadly weapon in furtherance of the offense (six months to 10 years), committing an offense with sexual motivation (12 months to four years), and committing a drug offense in a protected zone (24 months).

Recent Supreme Court Decision.

In *State v. Houston-Sconiers*, 188 Wn.2d 1 (2017), the Washington Supreme Court (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 Amended Bill:

For a minor sentenced in adult court, the court is provided with statutory authority to 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.

For a minor sentenced in adult court, the court is provided with complete statutory discretion to impose a sentence below the standard range and to reduce any applicable sentencing enhancement based on a consideration of mitigating circumstances associated with youth.

"Minor" means a person under the age of 18 years.

Amended Bill Compared to Second Substitute Bill:

The amended bill modifies the statutory discretion for reducing penalties for minors sentenced in adult court by specifying that the court has complete discretion to reduce the standard range and any applicable enhancement for a minor based on a consideration of mitigating circumstances associated with his or her youth (rather than only authorizing a reduction in consecutive enhancements when those enhancements would result in a clearly excessive sentence).

A definition for minor is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) This bill originally arose as a result of a case in Tacoma where a group of youth stole candy, a mask, and cell phones over a series of robberies on Halloween night. Since one of the youth brandished a gun, sentencing enhancements applied to each charge. As a result of sentencing enhancements imposed in adult court, the judge lacked any discretion to adjust sentences downward. One defendant received a sentence of 27 years and another received a sentence of 31 years. This is unbelievable. On appeal in *State v. Houston-Sconiers*, the Supreme Court ruled that judges have complete discretion to adjust sentences for juveniles, even when sentenced in adult court.

The bill codifies the decision in *State v. Houston-Sconiers*, bringing the SRA in line with the ruling. This is good for providing clarity to practitioners.

(Opposed) None.

Persons Testifying: Senator Darneille, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.