

SENATE BILL REPORT

SB 5610

As of February 22, 2017

Title: An act relating to the sentencing of juveniles.

Brief Description: Addressing the sentencing of juveniles.

Sponsors: Senators Darneille, Hasegawa and Saldaña.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/07/17.

Brief Summary of Bill

- Requires an defendant sentenced in adult court for a crime committed as a minor to serve all sentence enhancements concurrently.
- Authorizes the sentencing court to exercise discretion to reduce the defendant's sentence when sentence enhancements result in a clearly excessive sentence.
- Authorizes a sentencing court to consider the defendant's age, sophistication, and role in the crime as mitigating factors permitting an exceptional sentence below the standard range.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Melissa Burke-Cain (786-7755)

Background: When a juvenile is charged with specific serious or violent crimes, the case may be removed from juvenile court jurisdiction to adult court. In such cases, the juvenile is tried, and if convicted, is sentenced, as an adult. The court must impose a sentence within a standard sentencing range based on the severity of the crime and the defendant's criminal history unless there are reasons to impose an exceptional sentence outside the standard range. The court considers specified aggravating and mitigating factors in its sentencing decision. The court may impose a more severe exceptional sentence if there are sufficient aggravating circumstances, or a less severe exceptional sentence if there are sufficient mitigating circumstances. If the sentence is based on a multiple-count conviction, the court must decide whether the sentence for multiple counts should run one after another (consecutively) or

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simultaneously (concurrently). In some cases, the circumstances of the crime may require addition of a sentence enhancement, or may allow a prosecutor to allege special allegations, that increases the sentence's severity.

When a juvenile is tried and sentenced as an adult, the court considers the standard sentence range, any exceptional sentence aggravating or mitigating factors, and whether sentence enhancements or special allegations apply to the crime's circumstances. Current law does not distinguish juveniles from adults with respect to its discretion to impose sentences concurrently or consecutively, or whether the age, experience, or understanding or the youth offender is a mitigating factor. A sentence that is appropriate for an adult in some circumstances may be excessive when applied to a minor who is tried as an adult.

Summary of Bill: When a juvenile is tried and convicted as an adult, the court must sentence the offender to serve all sentence enhancements concurrently. If the court determines that imposing sentence enhancements would result in a clearly excessive sentence for a juvenile tried as an adult, the court may reduce the sentence. When a juvenile is sentenced in adult court, the judge may consider the defendant's age, sophistication, and role in the crime as mitigating factors allowing an exceptional sentence below the standard range for the crime.

Appropriation: None.

Fiscal Note: Requested on February 3, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: King county is releasing a report on its experience with auto-decline cases—referral of a juvenile case to adult court without a decline hearing. This bill gives a sentencing judge discretion to find mitigation but takes away the judge's discretion to decide whether enhancements should be served concurrently or consecutively. It requires enhancements be served concurrently. The judge should retain discretion. A judge should not have to apologize if he or she decides serving enhancements consecutively is appropriate under the case circumstances. Juveniles can act impulsively, and a sentence with consecutively served enhancements, or multiple enhancements may be clearly excessive. Whether a sentence is clearly excessive is appealable. If a court imposes a sentence outside the standard range for the crime, the judge must articulate why a sentence outside the standard range is appropriate; such sentences are also appealable. There is no objection to allowing the court discretion to reduce a sentence, but taking away the judge's discretion about concurrently serving sentence enhancements should not be approved.

Persons Testifying: PRO: Dan Satterberg, WAPA, King County Prosecuting Attorney.

Persons Signed In To Testify But Not Testifying: No one.