

HOUSE BILL REPORT

HB 1896

As Reported by House Committee On: Public Safety

Title: An act relating to promoting fair and proportional sentencing by modifying scoring provisions in the sentencing reform act.

Brief Description: Promoting fair and proportional sentencing by modifying scoring provisions in the sentencing reform act.

Sponsors: Representatives Morgan, Jinkins, Ormsby, Tharinger, Davis, Appleton, Fitzgibbon, Robinson and Frame.

Brief History:

Committee Activity:

Public Safety: 2/18/19, 2/21/19 [DPS].

Brief Summary of Substitute Bill

- Reduces the point values assigned to prior juvenile adjudications when calculating an offender score for the sentencing of a present adult felony conviction.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Davis, Vice Chair; Sutherland, Assistant Ranking Minority Member; Appleton, Lovick, Orwall, Pellicciotti and Pettigrew.

Minority Report: Do not pass. Signed by 2 members: Representatives Klippert, Ranking Minority Member; Graham.

Staff: Kelly Leonard (786-7147).

Background:

When a person is convicted of a ranked felony, the Sentencing Reform Act (SRA) applies and determines a specific sentence range within a statutory maximum. Sentences are

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determined by reference to a sentencing grid, which provides a standard range of months for the sentence. This range is based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history.

The seriousness level of an offense is designated in statute, and ranges from level I to level XVI. The offender score may vary from zero to nine or more points, depending on certain factors. The offender score is primarily based on the number of prior felony convictions. Prior felony convictions are assigned between one-half and three points each, depending on the nature and circumstances of the present and prior offenses. Certain prior felony convictions "wash out" after specified crime-free time periods and are not included in an offender score.

While most crimes committed by persons under the age of 18 are adjudicated in juvenile court, some cases are transferred to adult court after a discretionary hearing or are otherwise automatically transferred to adult court based on statutory criteria. If a person under the age of 18 is convicted in adult court, the conviction is considered an adult conviction for offender scoring in subsequent cases.

Although juvenile records are generally sealed, a sealing order is nullified when a person is charged with an adult felony subsequent to the sealing. Those unsealed adjudications are included in the offender score, unless sufficient time has passed for the general wash-out provisions to apply. A prior nonviolent juvenile adjudication is generally assigned a lower point value than a nonviolent adult conviction. Prior adjudications and convictions are assigned different point values depending on the nature of the present and prior offenses, as follows:

Present Offense	Prior Juvenile Felony Adjudication	Prior Adult Felony Conviction
Nonviolent Offense	0.5 point for nonviolent 1 point for violent	1 point nonviolent or violent
Violent Offense (Unless Serious Violent)	0.5 point for nonviolent 2 points for violent	1 point for nonviolent 2 points for violent
Serious Violent Offense	0.5 point for nonviolent 2 points for violent 3 points for serious violent	1 point violent 2 points for violent 3 points for serious violent
Sex Offense (Nonviolent, Violent, or Serious Violent)	3 points for sex offense Same rules as above apply to other priors.	3 points for sex offense Same rules as above apply to other priors.

In addition to the above scoring provisions, specialized scoring applies to certain offenses. Specialized scoring typically requires higher point values to be assigned to prior convictions and adjudications of the same or similar offense as the present conviction. For a present

conviction of a felony traffic offense, each prior Vehicular Homicide or Vehicular Assault counts as two points for either a juvenile adjudication or adult conviction, and other prior serious traffic offenses and felonies count as one-half point for a juvenile adjudication and one point for an adult conviction. For a present conviction of Homicide by Watercraft or Assault by Watercraft, each prior Homicide or Assault by Watercraft count as two points for either a juvenile adjudication or adult conviction, and other prior serious traffic offenses and felonies count as one-half point for a juvenile adjudication and one point an adult conviction.

There are also specialized scoring provisions for Residential Burglary, Manufacture of Methamphetamine, and domestic violence offenses, among others. The point values for juvenile adjudications varies.

In addition to the base sentence, other factors affect criminal sentencing, including: enhancements; exceptional sentences, either above or below the base sentence; consecutive or concurrent sentences; and alternative sentences.

Summary of Substitute Bill:

The point values assigned to prior juvenile adjudications when calculating an offender score for a present adult conviction are modified, as follows:

Present Offense	Prior Juvenile Felony Adjudication
Nonviolent Offense	Not included (0 points)
Violent Offense (Unless Serious Violent)	0 points for nonviolent 1 point for violent
Serious Violent Offense	0 points for nonviolent 1 point for violent 1 point for serious violent
Sex Offense (Nonviolent, Violent, or Serious Violent)	1 point for sex offense Same rules as above apply to other priors.

In addition, specialized scoring provisions are modified. For a present conviction of a felony traffic offense, each prior Vehicular Homicide or Vehicular Assault adjudication counts as one point, and other relevant scoring provisions are retained. For a present conviction of Homicide or Assault by Watercraft, each prior Homicide or Assault by Watercraft adjudication counts as one point, and other relevant scoring provisions are retained.

For other offenses with specialized scoring, each prior disposition is counted according to the generally applicable scoring provisions for nonviolent, violent, and serious violent offenses.

Substitute Bill Compared to Original Bill:

The provision prohibiting the scoring of certain prior convictions in adult court for crimes committed under the age of 18 is removed, and the current law requiring those convictions to score as prior adult convictions is restored.

The provision prohibiting the scoring of juvenile adjudications is removed. Instead, the point values assigned to prior juvenile adjudications are reduced.

Appropriation: None.

Fiscal Note: Requested on February 13, 2019.

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) In recent years, the courts have issued several rulings to reflect our society's changes in values with respect to children. It is time for the Legislature to do the same by treating children as children. The vast majority of states do not consider prior juvenile convictions when sentencing adults.

There have been a lot of advancements in the scientific research on neurological brain development. We understand that children are different from adults, and we are coming to understand why this is the case. Their brains are still forming, and they lack the impulse control of adults. They are also more susceptible to peer pressure.

In addition, children who are prosecuted for crimes are disproportionately people of color. Children prosecuted for crimes are also more likely to have suffered from abuse and neglect and are more likely to live in poverty. By punishing adults more severely because of juvenile offenses, the state is compounding the effect of these factors. Often, juvenile offenses are counted the same as adult offenses. This can lengthen a sentence by significant amounts, resulting in pressure to take an unfair plea bargain. Children who are abused, neglected, and impoverished are then punished even more in the future.

In simple terms, people should be held accountable. Juvenile offenders are held accountable, and they should have to serve their sentences. Nothing in this bill changes that. However, the practice of scoring offenses committed as children for present adult sentences is a vestige from our past. It is time to give children hope for the future. The system needs to stop judging people for what they did as children, and instead judge them based on their actions today.

(Opposed) None.

Persons Testifying: Representative Morgan, prime sponsor; Katherine Hurley, Washington Defender Association; and Dominique Harris and Dominique Davis, Community Passageways.

Persons Signed In To Testify But Not Testifying: None.