
Human Services & Early Learning Committee

HB 2795

Brief Description: Concerning convictions for offenses that were committed at age sixteen or seventeen and placed in exclusive jurisdiction of the juvenile court in 2018.

Sponsors: Representatives Frame, Senn, Kilduff, Davis, Peterson, Lekanoff, Pollet and Santos.

Brief Summary of Bill

- Creates a process for persons convicted under exclusive original adult criminal jurisdiction between July 1, 1997, and June 7, 2018, for certain crimes committed at the age of 16 or 17 to petition the court to vacate the judgment and sentence and transfer the case for disposition in juvenile court.

Hearing Date: 1/31/20

Staff: Luke Wickham (786-7146).

Background:

Adult Court Jurisdiction Over Offenses Committed While Under Age 18.

Generally juvenile court has jurisdiction over individuals who commit an offense before turning age 18.

There are four instances where adult court will have jurisdiction over individuals who commit a criminal offense before turning age 18:

- discretionary decline: where the prosecutor, respondent, or the court on its own motion may file a motion requesting the court to transfer the respondent for adult criminal prosecution if the respondent is age 15 or older charged with a serious violent offense, age 14 or younger charged with Murder in the first or second degree, or any age and charged with custodial assault while serving sentence to age 21;

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- required decline hearing: unless waived by the court, the parties, and their counsel, a decline hearing must be held when the information alleges an escape and the juvenile is serving a juvenile sentence to age 21; or
- exclusive adult court jurisdiction: adult criminal court has exclusive original jurisdiction over juveniles ages 16 or 17 on date of offense when the offense is:
 - a serious violent offense;
 - a violent offense with certain criminal history; or
 - Rape of a Child in the first degree; and
- offenses charged after an individual turns age 18.

Adult district and municipal courts also have jurisdiction over alleged offenses or infractions that are traffic, fish, boating, or game offenses, or traffic or civil infractions committed by a juvenile age 16 or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction.

In 2018, the following offenses were transferred from the exclusive original jurisdiction of adult court to the exclusive original jurisdiction of juvenile court when committed by a youth age 16 or 17:

- Robbery in the first degree;
- Drive-by Shooting;
- Burglary in the first degree if juvenile has a prior felony or misdemeanor offense; and
- any violent offense when juvenile is alleged to have been armed with a firearm.

Violent Offense.

The term "violent offense" is defined to mean any of the following felony offenses:

- any felony defined as a class A felony or an attempt to commit a class A felony;
- criminal solicitation of or criminal conspiracy to commit a class A felony;
- Manslaughter in the first degree;
- Manslaughter in the second degree;
- Indecent Liberties if 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 while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
- Vehicular Homicide when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to the above felonies; and
- any federal or out-of-state conviction for an offense that would meet the elements of the above felonies.

Summary of Bill:

Any person convicted under exclusive original adult criminal jurisdiction between July 1, 1997, and June 7, 2018, for a crime committed at the age of 16 or 17 may petition the court of conviction to vacate the judgment and sentence and transfer the case for disposition in juvenile court if the conviction was for one of the following offenses:

- Robbery in the first degree;
- Drive-by Shooting;
- Burglary in the first degree when the juvenile has a criminal history consisting of one or more prior felony, misdemeanor, or gross misdemeanor offenses; or
- any violent offense and the juvenile is alleged to have been armed with a firearm.

Upon receiving the petition, the superior court shall vacate the judgment and sentence and transfer the case to juvenile court for a juvenile court disposition only if the following are applicable:

- there are no pending appeals in the case to be vacated and transferred;
- the petitioner stipulates to the existence of facts necessary to support adjudication in juvenile court for any and all current convictions subject to this section.
- the convictions must not currently be offenses subject to exclusive adult jurisdiction. If a cause number contains both offenses that are currently subject to exclusive adult jurisdiction and offenses that are no longer subject to exclusive adult jurisdiction, the charges may be severed to allow for resentencing of those offenses no longer subject to exclusive adult jurisdiction;
- the petitioner stipulates to an automatic extension of jurisdiction for purposes of imposing a disposition and supervision up to age 25. In the event the petitioner is age 25 or older at the time of resentencing, the juvenile court shall maintain jurisdiction to impose a juvenile disposition, but jurisdiction to enforce terms of supervision, sanctions, and confinement shall end at the conclusion of the disposition hearing; and
- the petitioner stipulates he or she shall be subject to disposition in juvenile court and understands the juvenile court shall not be required to impose a standard range disposition, but may impose any juvenile disposition allowed, provided that the juvenile court shall not impose any term of confinement, financial penalties, or restitution that exceeds the terms of the petitioner's previous judgment and sentence. Upon disposition in juvenile court, the petitioner must receive credit for any confinement served and financial restitution or penalties paid.

Any resentencing petition received by mail or submitted in person to the superior court of the judicial district in which the petitioner was originally convicted must be reviewed by the superior court within 30 days of receipt of the written petition.

The superior court shall not charge a filing fee for resentencing petitions. The superior court may consider testimony by the petitioner if deemed relevant. The petitioner must acknowledge in the initial written petition whether the petitioner will appear in person for the resentencing review hearing. The superior court must review, transfer, and dispose of the case, regardless of whether the petitioner is present with copies of court orders sent to the petitioner at the petitioner's last known address or to an address specified in the petition.

The Department of Corrections, in collaboration with the Administrative Office of the Courts and the Office of Public Defense (OPD), shall provide written notice by June 30, 2020, to all eligible persons of their right to petition the court for resentencing. The written notice must describe the process of filing the petition, describe the process by which the petition shall be reviewed, include information related to accessing legal assistance, and include the form required for making necessary stipulations. A list of eligible persons with current contact information must be shared with the OPD.

A person who is appealing a conviction that would otherwise be eligible for vacation and transfer for disposition in juvenile court may request dismissal of his or her appeal for the purpose of filing a resentencing petition. In this circumstance only, a new appeal may be filed following juvenile court disposition within the time allowed by court rules containing only issues that were previously raised on appeal and are not mooted by the vacation of the judgment, sentence, and disposition in juvenile court. The record on appeal shall be the record of the person's original conviction, notwithstanding stipulations made by the petitioner, to enable disposition in juvenile court.

Appropriation: The sum of \$500,000 is appropriated for the fiscal year ending June 30, 2021, from the General Fund to the OPD solely for the purpose of providing funds to legal advocacy organizations for the legal assistance needed to assist petitioners seeking resentencing.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect March 31, 2020.