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## Public Safety Committee

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### SSB 5488

**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 Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Saldaña, Wilson, C., Keiser and Nguyen).

#### Brief Summary of Substitute Bill

- Allows a judge to sentence a defendant below the standard range based on a consideration of the defendant's age, lack of sophistication, susceptibility to peer pressure, or other factors relating to the defendant's youthfulness.
- Allows a judge to depart from mandatory sentencing enhancements when sentencing a minor in adult court.

**Hearing Date:** 3/19/19

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

#### **Background:**

##### Adult Sentencing Laws.

Felony crimes are generally 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 in adult court. The SRA is generally a determinate sentencing system in which 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 and enhancements.

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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.

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. Several types of enhancements are 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). Certain enhancements are mandatory and must be served consecutively.

### Minors in Adult Court.

There are two primary circumstances where a crime committed under age 18 (as a minor) may be filed in adult court. First, certain charges involving minors can be transferred from juvenile court to adult criminal court. A transfer may occur after a discretionary hearing, or in some cases, state law mandates a transfer based on the nature of the alleged offense. Second, charges are filed in adult court where the person is presently over age 18, regardless of his or her age at the time of the offense.

If a crime committed as a minor is charged in adult court and the person is convicted, the person is not subjected to juvenile sentencing standards. Instead, adult sentencing laws apply to the case. Adult sentencing laws are generally more severe than juvenile sentencing standards. However, 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 under the SRA. In *State v. O'Dell*, 183 Wn.2d 680 (2015), the Washington Supreme Court also held that a defendant's youthfulness can support an exceptional sentence below the standard range applicable to an adult felony defendant, and that the sentencing court must exercise its discretion to decide when that is.

### **Summary of Bill:**

The court is authorized to impose a sentence below the standard range where the defendant's age, lack of sophistication, susceptibility to peer pressure, or other factors relating to the defendant's youthfulness at the time of the offense render the defendant less culpable than if the offense had been committed by a fully developed adult.

If a person is being sentenced in adult court for a crime committed as a minor, the court has full discretion to depart from mandatory sentencing enhancements and take the particular circumstances surrounding the defendant's youth into account.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 18, 2019.

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