
HOUSE BILL 2795

State of Washington

66th Legislature

2020 Regular Session

By Representatives Frame, Senn, Kilduff, Davis, Peterson, Lekanoff, Pollet, and Santos

Read first time 01/22/20. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to convictions for offenses that were committed
2 at age sixteen or seventeen and placed in exclusive jurisdiction of
3 the juvenile court in 2018; adding a new section to chapter 13.04
4 RCW; adding a new section to chapter 9.94A RCW; creating a new
5 section; making an appropriation; providing an effective date; and
6 declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** This act provides a mechanism for persons
9 convicted in adult court for a crime committed at age sixteen or
10 seventeen between July 1, 1997, and June 7, 2018, of a crime which
11 was subject to autodecline at the time of conviction, but
12 subsequently transferred to the exclusive jurisdiction of the
13 juvenile court by chapter 162, Laws of 2018, to petition for the
14 vacation of their conviction and disposition of the offense in
15 juvenile court.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.04
17 RCW to read as follows:

18 (1) Any person convicted under exclusive original adult criminal
19 jurisdiction between July 1, 1997, and June 7, 2018, for a crime
20 committed at the age of sixteen or seventeen may petition the court

1 of conviction to vacate the judgment and sentence and transfer the
2 case for disposition in juvenile court if the conviction was for one
3 of the following offenses:

4 (a) Robbery in the first degree;

5 (b) Drive-by shooting;

6 (c) Burglary in the first degree when the juvenile has a criminal
7 history consisting of one or more prior felony, misdemeanor, or gross
8 misdemeanor offenses; or

9 (d) Any violent offense as defined in RCW 9.94A.030 and the
10 juvenile is alleged to have been armed with a firearm.

11 (2) Upon receiving the petition, the superior court shall vacate
12 the judgment and sentence and transfer the case to juvenile court for
13 disposition under this title only if the following are applicable:

14 (a) There are no pending appeals in the case to be vacated and
15 transferred;

16 (b) The petitioner stipulates to the existence of facts necessary
17 to support adjudication in juvenile court for any and all current
18 convictions subject to this section. If the current convictions are
19 based on a fact-finding in which the defendant maintained a plea of
20 not guilty or relied on an *Alford* plea, the stipulation may be in the
21 form of an *Alford* plea;

22 (c) The convictions must not currently be offenses subject to
23 exclusive adult jurisdiction under RCW 13.04.030. If a cause number
24 contains both offenses that are currently subject to exclusive adult
25 jurisdiction and offenses that are no longer subject to exclusive
26 adult jurisdiction, the charges may be severed to allow for
27 resentencing of those offenses no longer subject to exclusive adult
28 jurisdiction;

29 (d) The petitioner stipulates to an automatic extension of
30 jurisdiction for purposes of imposing a disposition and supervision
31 up to the age of twenty-five, regardless of the limitations set forth
32 in RCW 13.40.300. In the event the petitioner is age twenty-five or
33 older at the time of resentencing, the juvenile court shall maintain
34 jurisdiction to impose a juvenile disposition order under this title,
35 but jurisdiction to enforce terms of supervision, sanctions, and
36 confinement shall end at the conclusion of the disposition hearing;
37 and

38 (e) The petitioner stipulates he or she shall be subject to
39 disposition in juvenile court and understands the juvenile court
40 shall not be required to impose a standard range disposition, but may

1 impose any disposition allowed pursuant to this title, provided that
2 the juvenile court shall not impose any term of confinement,
3 financial penalties, or restitution that exceeds the terms of the
4 petitioner's previous judgment and sentence. Upon disposition in
5 juvenile court, the petitioner must receive credit for any
6 confinement served and financial restitution or penalties paid.

7 (3) Any petition under this section or RCW 13.40.030 received by
8 mail or submitted in person to the superior court of the judicial
9 district in which the petitioner was originally convicted must be
10 reviewed by the superior court within thirty days of receipt of the
11 written petition.

12 (4) The superior court shall not charge a filing fee for
13 petitions submitted under this section. The superior court may
14 consider testimony by the petitioner if deemed relevant. The
15 petitioner must acknowledge in the initial written petition whether
16 the petitioner will appear in person for the resentencing review
17 hearing. The superior court must review, transfer, and dispose of the
18 case as required, regardless of whether the petitioner is present,
19 with copies of court orders sent to the petitioner at the
20 petitioner's last known address or to an address specified in the
21 petition.

22 (5) The department of corrections, in collaboration with the
23 administrative office of the courts and the office of public defense,
24 shall provide written notice by June 30, 2020, to all eligible
25 persons of their right to petition the court for resentencing. The
26 written notice must describe the process of filing the petition,
27 describe the process by which the petition shall be reviewed, include
28 information related to accessing legal assistance, and include the
29 form required for making necessary stipulations. A list of eligible
30 persons with current contact information must be shared with the
31 office of public defense.

32 (6) A person who is appealing a conviction that would otherwise
33 be eligible for vacation and transfer for disposition in juvenile
34 court under this section may request dismissal of his or her appeal
35 for the purpose of filing a petition under this section. In this
36 circumstance only, a new appeal may be filed following juvenile court
37 disposition within the time allowed by court rules containing only
38 issues that were previously raised on appeal and are not mooted by
39 the vacation of the judgment, sentence, and disposition in juvenile
40 court. The record on appeal shall be the record of the person's

1 original conviction, notwithstanding stipulations made by the
2 petitioner, to enable disposition in juvenile court.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A
4 RCW to read as follows:

5 Any person convicted under exclusive original adult criminal
6 jurisdiction between July 1, 1997, and June 7, 2018, for a crime
7 committed at the age of sixteen or seventeen, which was transferred
8 to the exclusive jurisdiction of juvenile court by chapter 162, Laws
9 of 2018, may petition the court of conviction to vacate the judgment
10 and sentence under section 2 of this act.

11 NEW SECTION. **Sec. 4.** The sum of five hundred thousand dollars,
12 or as much thereof as may be necessary, is appropriated for the
13 fiscal year ending June 30, 2021, and the sum of five hundred
14 thousand dollars, or as much thereof as may be necessary, is
15 appropriated for the fiscal year ending June 30, 2022, from the
16 general fund to the office of public defense solely for the purpose
17 of providing funds to legal advocacy organizations for the legal
18 assistance needed to assist petitioners with complying with this act.

19 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect March 31, 2020.

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