

SENATE BILL REPORT

SB 5120

As of January 20, 2021

Title: An act relating to the criminal sentencing of youth and young adults.

Brief Description: Concerning the criminal sentencing of youth and young adults.

Sponsors: Senators Darneille, Das, Hasegawa, Liias, Lovelett, Mullet, Nguyen, Robinson, Saldaña and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/19/21.

Brief Summary of Bill

- Allows individuals sentenced on or before March 2, 2017, in adult court, for a crime committed under the age of 18, to have a resentencing hearing.
- Requires the court to consider mitigating factors related to the individual's youthfulness.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Julie Tran (786-7283)

Background: Adult Court Sentencing. The Sentencing Reform Act of 1981 (SRA) established determinate sentencing in Washington State, and originally adopted in 1983, the courts use a sentencing grid to determine a standard sentencing range for an individual. The standard range is determined by the seriousness level of the offense assigned by the Legislature and an offender's score is determined by the individual's criminal history and other current offenses.

A court must sentence an individual within their standard sentencing range, plus any proven

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sentencing enhancements, unless the court finds grounds to impose an exceptional sentence outside the standard range.

Sentencing Enhancements. The standard range may be increased by sentencing enhancements, which must be pleaded and proven like elements of a criminal offense. Most sentencing enhancements, with certain exceptions, are specified as mandatory and must be served consecutively to the standard range sentence with applicable sentencing enhancements, and in total confinement without earned release time.

Exceptional Sentences. The court may impose an exceptional sentence outside the standard range if it finds substantial and compelling reasons. An exceptional sentence is subject to appeal by the defendant or the state. The court must enter written findings based on explicitly stated mitigating or aggravating circumstances

Current Washington Law. In 2020, the Legislature passed 2SSB 5488 allowing the adult court to depart from mandatory sentencing enhancements when sentencing a person for a crime committed under the age of 18. The court must consider the particular circumstances surrounding a defendant's youth, lack of sophistication, susceptibility to peer pressure, and age.

This legislation codifies into statute a line of federal jurisprudence and Washington State Supreme Court's 2015 *State v. O'Dell* (183 Wn.2d 680) and 2017 *State v. Houston-Sconiers* (188 Wn.2d 1) decisions, where the court found the eighth amendment requires sentencing courts to take into account a defendant's youthfulness. Sentencing courts have full discretion to depart below applicable SRA standard ranges and modify otherwise mandatory sentencing enhancements when sentencing a juvenile in adult court.

Recent Washington State Supreme Court Decisions. In September 2020, the court held that new rules of juvenile sentencing are retroactive and must be applied to previous cases. Individuals sentenced before the *Houston-Sconiers* decision on March 2, 2017, are entitled to a resentencing hearing. The court must depart from standard sentencing and consider the mitigating qualities of youth when imposing a sentence.

Summary of Bill: The standard sentences reflect that the court must consider the mitigating factors relating to their youthfulness if a person is being sentenced in adult court for a crime committed under the age of 18. The court has full discretion to impose any lesser sentence.

Upon an individual's motion, the court will grant a resentencing hearing if the individual was sentenced on or before March 2, 2017, in adult court, for a crime that occurred under the age of 18.

Appropriation: None.

Fiscal Note: Available.

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

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