

SENATE BILL REPORT

SB 5609

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, January 25, 2022

Title: An act relating to eliminating fingerprinting at juvenile dispositions.

Brief Description: Eliminating fingerprinting at juvenile dispositions.

Sponsors: Senators Trudeau, Wilson, C., Das, Hasegawa, Nguyen, Nobles and Stanford; by request of Administrative Office of the Courts.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/11/22, 1/25/22 [DP, w/oRec].

Brief Summary of Bill

- Removes the requirement for a fingerprint from an individual under the age of 18 to be affixed to the original order adjudicating the individual to be a delinquent.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass.

Signed by Senators Wilson, C., Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Saldaña and Trudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Dozier and McCune.

Staff: Julie Tran (786-7283)

Background: Juvenile Court. In Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under age 18 who are

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alleged to have committed a crime. There are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts. There are three situations where adult criminal courts may have jurisdiction over persons under age 18:

- the juvenile court declines jurisdiction to adult court following a discretionary decline hearing, which a court can initiate on its own motion, or any party may file a motion requesting the court transfer the juvenile to adult court only if the respondent is at least age 15 and charged with a serious violent offense; the respondent is age 14 or younger and charged with murder in the first or second degree; or the respondent is any age and charged with custodial assault and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age 21;
- the juvenile court is required to hold a decline hearing in circumstances when the information alleges an escape and the individual under the age of 18 is serving a minimum juvenile sentence to age 21; and
- adult criminal courts have exclusive jurisdiction over individuals aged 16 or 17 on the date of the offense when the offense is a serious violent offense; a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense, two or more prior violent offenses, or three or more of any combination of class A felonies, class B felonies, vehicular assault, or manslaughter in the second degree; or rape of a child in the first degree.

Fingerprint Requirements in Felony Convictions for Individuals Under 18. The sheriff or public safety director of every county, the police chief of every city or town, and every chief officer of other law enforcement agencies operating in Washington have the duty to photograph and fingerprint all adults and individuals under the age of 18 who are lawfully arrested for any criminal offense constituting a felony or gross misdemeanor. When individuals under the age of 18 are brought to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to photograph, fingerprint, and transmit records to the appropriate law enforcement agency.

At the preliminary hearing or the arraignment of a felony case, the judge must ensure that the felony defendants have been fingerprinted and an arrest and fingerprint form has been transmitted. In cases where fingerprints have not been taken for individuals under the age of 18, the judge must order the juvenile court administrator to initiate an arrest and fingerprint form to transmit to the Washington State Patrol's identification and criminal history section

A fingerprint of the individual, who is the subject of the order, must be affixed to:

- every judgment and sentence of a felony conviction in every court; and
- every order adjudicating an individual under the age of 18 to be a delinquent based upon conduct which would be a felony if committed by an adult.

The clerk of court must attest the fingerprints appearing on the judgment in sentence, order of adjudication of delinquency, or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry.

Amended judgment and sentences issued pursuant to *State v. Blake* are exempt from the fingerprinting requirements when there are no additional offenses of conviction from the original judgment and sentence and the defendant is in custody in a correctional facility. The amended judgment and sentence must reference the original judgment and sentence and the fingerprints affixed to those documents.

Summary of Bill: The requirement for a fingerprint of the individual under the age of 18 to be affixed to the original order adjudicating the individual to be a delinquent based upon conduct which would be a felony if committed by an adult is not required.

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.

Staff Summary of Public Testimony: PRO: Fingerprinting at disposition isn't necessary for the prosecutor to prove the identity of the individual subject to the adjudication order. It is very time consuming and cumbersome for court staff. They have other means to establish identity. This requirement impacts the ease of virtual hearings for juveniles. It's not possible to excuse a person to be in person if they are required to appear in person to get fingerprinted. Currently, juveniles are fingerprinted at multiple stages during the adjudication process for a felony. Statutes require that juveniles who are lawfully arrested during the commission of any criminal offense that constitutes a felony be fingerprinted. This bill will not change that requirement and fingerprints will still be on file. The fingerprints nowadays are not matched by paper. They are done by trained staff and uploaded into the electronic database.

CON: This provision is significant because fingerprints at the time of arrest and the time someone comes to court are different and distinct than the ones that are affixed on an adjudication. Fingerprints have been used as a way to clear individuals also. If you don't have fingerprints, then there are additional expenses to bring people in to attest to the identity of the individual. We're concerned that this would open the opportunity and give doubt that the individual in the court may not be the individual subject to the order. This bill as proposed could exacerbate public safety challenges.

Persons Testifying: PRO: Senator Yasmin Trudeau, Prime Sponsor; George Yeannakis, Washington State Office of Public Defense; Blair Daly; Brittany Gregory, Administrative Office of the Courts; Theresa Doyle, Washington Minority and Justice Committee; Karen Pillar, TeamChild.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.