

HOUSE BILL REPORT

HB 2213

As Amended by the Senate

Title: An act relating to defects and omissions in the laws that have been identified by the justices of the supreme court or judges of the superior courts pursuant to Article IV, section 25 of the state Constitution.

Brief Description: Concerning defects and omissions in the laws that have been identified by the justices of the supreme court or judges of the superior courts pursuant to Article IV, section 25 of the state Constitution.

Sponsors: Representatives Cheney, Taylor, Duerr and Graham.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/24/24, 1/30/24 [DP].

Floor Activity:

Passed House: 2/13/24, 96-1.

Senate Amended.

Passed Senate: 2/27/24, 49-0.

Brief Summary of Bill

- Amends or repeals several statutes that have been identified by the Washington Supreme Court and superior court judges as containing defects or omissions in the laws.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Taylor, Chair; Farivar, Vice Chair; Abbarno, Cheney, Entenman, Goodman, Peterson, Thai and Walen.

Minority Report: Do not pass. Signed by 1 member: Representative Graham, Assistant Ranking Minority Member.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative Walsh, Ranking Minority Member.

Staff: Yelena Baker (786-7301).

Background:

Article IV, section 25 of the Washington Constitution provides a requirement for the courts to identify and report on defects and omissions in the laws. Under this provision, superior court judges must annually report to the Washington Supreme Court "such defects and omissions in the law as their experience may suggest." This requirement is also contained in statute, which additionally requires court of appeals judges to report defects and omissions in the law to the Washington Supreme Court. The constitutional provision directs the Washington Supreme Court to annually report to the Governor, on or before the first day of January, those defects or omissions in the law that are believed to exist.

The 2023 letter from the Chief Justice of the Washington Supreme Court on defects and omissions in the law identifies several statutory provisions or chapters of law that have been found unconstitutional by Washington or federal courts, or whose validity is in question based on court decisions, but that remain codified in Washington law. When a statute is found unconstitutional, it is no longer valid or enforceable, but it remains in the law until the Legislature removes the unconstitutional provision by amendment or repeal of the statute.

Summary of Bill:

Amended Statutes.

The following statutes that have been found unconstitutional, or whose constitutionality is suspect given court decisions, are amended:

- *RCW 10.95.030*—Requiring mandatory life sentence without the possibility of parole for any person convicted of aggravated first-degree murder if the offense was committed when the person is at least 18 years old. The statute is amended to require mandatory life sentence without the possibility of parole for anyone who is at least 21 years old, rather than 18 years old, at the time the offense is committed. Any person convicted of aggravated first-degree murder committed when the person was at least 16 years old but less than 21 years old, rather than 18 years old, must be sentenced to a minimum term of no less than 25 years and a maximum term of life imprisonment.
- *RCW 10.116.030*—Requiring law enforcement agencies to receive authorization of the highest elected official of the jurisdiction in which tear gas is to be used before using tear gas to subdue a riot outside of a correctional, jail, or detention facility. The statutory definition of "highest elected official" for noncharter counties is amended to refer to the county sheriff, rather than the chair of the county legislative authority, so

that in noncharter counties, the authorization to use tear gas to subdue a riot outside of a correctional or detention facility must be obtained from the county sheriff rather than the chair of the county legislative authority.

- *RCW 13.04.030*—Relating to the jurisdiction of the juvenile courts. A provision is added to state that the statutory grant of "exclusive original jurisdiction" to the juvenile courts over specified matters relating to juveniles does not deprive the superior courts of original jurisdiction granted by the state Constitution or by other laws.
- *RCW 21.20.380*—Authorizing the Director of the Department of Financial Institutions to issue administrative subpoenas and require production of records relevant to investigations of violations under the Securities Act of Washington. A provision is added to state that the statute does not authorize the Director to compel the production of customer banking records.
- *RCW 29A.80.061*—Requiring the county chair of each major political party, after the statewide general election in even-numbered years, to call separate meetings of all elected precinct committee officers in each legislative district for the purpose of electing a legislative district chair in such district. The statute is amended to require the precinct committee officers in each legislative district to select, rather than elect, their legislative district chairs during the legislative reorganization meeting called by the county chair of each major political party.

Repealed Statutes.

The following statutes or chapters of law that have been found unconstitutional, or whose constitutionality is suspect given court decisions, are repealed:

- *RCW 9.68.060, RCW 9.68.070, and RCW 9.68.090*—Relating to: procedures for applying to the superior court for a determination on whether material being sold, distributed, or exhibited in the state may be deemed erotic; labeling and display requirements for material deemed by the court to be erotic; and the crime of selling, distributing, or exhibiting erotic materials to minors after the court determines material to be erotic.
- *Initiative Measure No. 976 (Chapter 1, Laws of 2020)*—Relating to limiting state and local taxes, fees, and other charges relating to vehicles.

Other Provisions.

The Secretary of State is respectfully requested to publish Article IX, section 1 of the state Constitution without the added section caption of "Preamble" based on the legislative findings that this constitutional provision does not have a section caption in the original source.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes provisions amending the statute that concerns sentences for Aggravated Murder in the first degree and that is included in the Washington Supreme Court defects and omissions letter as a result of that court's decision in *In re Pers. Restraint of Monschke*. The removed provisions would have required mandatory life sentence without the possibility of parole for any person convicted of Aggravated Murder in the first degree committed when the person is at least 21 years old, rather than 18 years old. The removed provisions would have also required a person convicted of Aggravated Murder in the first degree committed when the person was less than 21 years old, rather than 18 years old, to be sentenced to a minimum term of no less than 25 years and a maximum term of life imprisonment.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This is a constitutional obligation that comes over from the courts. The Legislature appreciates the courts sending the defects and omissions letter to the Legislature. This year's bill based on that letter is shorter than in previous years and hopefully less controversial.

A question has been raised about the clarity of the section of the bill relating to juvenile sentencing. It is important to make sure that it is clear and reflects current state law and operations.

(Opposed) None.

(Other) Prosecutors do not have concerns with the direction of the bill, but there are a couple of things to highlight. One relates to Section 2 of the bill and the Snaza case. The other relates to the Monschke case, which is being addressed by another bill in another committee. It is important to respond to this case, but as currently worded, the bill responds to it more broadly than the Washington Supreme Court intended. Other members and committees have been working to narrow that, and this committee should adopt similar language.

Persons Testifying: (In support) Representative Greg Cheney, prime sponsor.

(Other) Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.