

# SENATE BILL REPORT

## SB 5434

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As of January 29, 2023

**Title:** An act relating to the jurisdiction of juvenile court.

**Brief Description:** Concerning the jurisdiction of juvenile court.

**Sponsors:** Senators Trudeau, Wilson, C., Frame, Hasegawa, Kuderer, Nguyen and Saldaña.

**Brief History:**

**Committee Activity:** Human Services: 1/31/23.

**Brief Summary of Bill**

- Increases the minimum age of juvenile court jurisdiction to 14 years old and increases the maximum age of incapacity of committing a crime to 13 years old.
- Establishes that children ages 8 through 13 charged with murder in the first or second degree are presumed incapable of committing the crime unless rebutted by clear and convincing evidence of sufficient capacity.
- Creates a Raise the Age Juvenile Justice Task Force to consider and provide recommendations regarding implementation of juvenile jurisdiction expansion to individuals ages 18, 19, and 20.

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### SENATE COMMITTEE ON HUMAN SERVICES

**Staff:** Delika Steele (786-7486)

**Background:** Under Washington State law, children under the age of 8 are legally incapable of committing a crime and may not be prosecuted in either juvenile or adult court. Children ages 8 through 11 are presumed incapable of committing a crime, but this presumption may be removed by proof they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Children ages 12 and older are presumed to have

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the capacity to commit a crime.

In the state of Washington, juvenile courts, a division of the state's superior court system, have jurisdiction over persons under age 18 who are alleged to have committed a crime.

There are exceptions to this jurisdiction which may require youths to be tried in adult courts. These include:

- discretionary decline—where the juvenile court or a party file a motion requesting transfer of a juvenile because the juvenile is 15 or older and charged with a serious violent offense, 14 or younger and charged with murder in the first or second degree, or charged with custodial assault after already serving a minimum juvenile sentence to age 21;
- required decline—in circumstances when the information alleges an escape, and the juvenile is serving a minimum juvenile sentence to age 21;
- auto decline—when a juvenile is 16 or 17 at the time of committing a serious violent offense, a violent offense and the juvenile has a history of committing a prior serious violent offense, two or more violent offenses, three or more of any combination of class A or B felonies, vehicular assault, or manslaughter in the second degree, or when a juvenile is 16 or 17 at the time of committing the rape of a child in the first degree

The Juvenile Rehabilitation (JR) section of the Department of Children Youth and Families (DCYF) serves Washington State's highest-risk youth. Youth may be committed to JR custody by any county juvenile court. The juvenile courts follow prescribed sentencing guidelines to determine which youth will be committed to JR. These youth typically have committed many lower-level offenses or have committed a serious crime.

**Summary of Bill:** Capacity to Commit a Crime. Children aged 13 and younger are incapable of committing a crime and are less capable of making fully informed, reasoned decisions. Children ages 8 through 13 charged with murder in the first or second degree are presumed incapable of committing a crime. This presumption may be rebutted by clear and convincing evidence they have sufficient capacity to understand the act or neglect, and to know it was wrong. The minimum age of juvenile court jurisdiction for the commission of an offense is 14 years old.

Raise the Age Juvenile Task Force. The Raise the Age Juvenile Justice Task Force (task force) is established to examine and plan for implementation of juvenile jurisdiction expansion to encompass individuals ages 18, 19, and 20. The president of the Senate will appoint one member from each of the two largest caucuses of the Senate to the task force. The speaker of the House of Representatives will appoint one member from each of the two largest caucuses of the House of Representatives. The president of the Senate and the speaker of the House of Representatives will appoint a representative of the following to the task force unless specified:

- Juvenile Rehabilitation Administration (JRA);

- Department of Corrections (DOC);
- Washington Association of Sheriffs and Police Chiefs;
- Office of Public Defense;
- Washington Association of Prosecuting Attorneys;
- District and Municipal Court Judges' Association;
- Administrative Office of the Courts;
- Washington State Association of Counties;
- Association of Washington Cities;
- Washington State Council of County and City Employees;
- Office of the Superintendent of Public Instruction;
- Minority and Justice Commission;
- Superior Court Judges' Association—one member representing western Washington and one member representing eastern Washington;
- Washington Association of Juvenile Court Administrators—one member representing western Washington and one member representing eastern Washington;
- Washington State School Directors' Association—a member representing a school district providing education services to a juvenile rehabilitation residential facility;
- organizations with interests in incarcerated persons—two members representing different programs and serving different constituencies; and
- organizations with interests of youth-involved in the juvenile justice system—three members from different regions of the state or representing different programs.

Nonlegislative members of the task force are members of a class one group under Washington State's law on the compensation of members of part-time boards and commissions. The members may be eligible for stipends and reasonable allowances for child and adult care reimbursement.

A report will be submitted to the Governor and Legislature on or before December 1, 2025, that includes but is not limited to:

- recommended legislative action;
- necessary funding, essential personnel and programmatic resources, specific milestones related to operations and policy;
- measures necessary to avoid a negative impact on the state's child protection response;
- a timeline for structural and system changes within the juvenile justice system for JRA, DCYF, DOC, and the juvenile court;
- an operations and business plan defining benchmarks and possible resource allocation changes;
- review of estimated costs avoided by local and state governments with the reduction of recidivism and an analysis of cost savings reinvestment options;
- estimated new costs incurred to provide juvenile justice services to persons 18, 19, and 20 years old; and
- a clearly defined path for geographic consistency given varying local resources, staff, physical plant limitations, training, services, and partnering needs.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

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