
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2065

State of Washington

68th Legislature

2024 Regular Session

By House Appropriations (originally sponsored by Representatives Stearns, Hackney, Ramel, Simmons, Reed, Ormsby, Street, Gregerson, Doglio, Lekanoff, Fosse, Santos, Reeves, and Pollet)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to recalculating sentencing ranges for currently
2 incarcerated individuals whose offender score was increased by
3 juvenile convictions no longer scorable under current law and
4 allowing them to apply for resentencing without scoring those
5 juvenile convictions; adding a new section to chapter 9.94A RCW;
6 creating new sections; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that, with the
9 support of eight Washington tribal governments and indigenous
10 organizations along with a broad array of other advocates, the
11 legislature passed Engrossed House Bill No. 1324 in 2023 to end the
12 practice of assigning "juvenile points" to lengthen state prison
13 sentences. The legislature finds that incarcerated indigenous people
14 are the most disproportionately impacted by prior juvenile felony
15 adjudications, followed closely by black people, Pacific Islanders,
16 and Hispanic people.

17 The legislature further finds that the grave disproportionality
18 within the juvenile legal system has the downstream effect of
19 impacting sentencing ranges in adult court. The legislature
20 recognizes that because of the expansive body of scientific research
21 on brain development, which shows that adolescent's perception,

1 judgment, and decision making differs significantly from that of
2 adults, and based on the need to redress the harms of the past, it is
3 sound public policy to make the changes enacted in Engrossed House
4 Bill No. 1324 retroactive.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A
6 RCW to read as follows:

7 (1) Any person sentenced for an offense committed prior to July
8 23, 2023, whose offender score was increased due to any juvenile
9 adjudications that are not scorable under RCW 9.94A.525 as enacted at
10 the time the petition is filed shall be entitled to a resentencing
11 hearing upon the offender's motion for relief from sentence to the
12 original sentencing court if:

13 (a) The person is currently incarcerated in total confinement
14 with a release date on the sentence of July 1, 2025, or later; and

15 (b) Until January 1, 2027, the person:

16 (i) Has a release date on the sentence within three years, or the
17 person would be eligible for release on the sentence within three
18 years if they were resentenced to a standard range sentence based on
19 an offender score which does not include juvenile adjudications that
20 are not scorable under RCW 9.94A.525 as enacted at the time the
21 petition is filed; or

22 (ii) Has served over 15 years of their sentence; or

23 (ii) Has served at least 50 percent of their sentence.

24 (2) The sentencing court shall grant the motion if it finds that
25 the person is currently incarcerated in total confinement, has a
26 release date of July 1, 2025, or later, and the previous offender
27 score was increased due to any juvenile adjudications that are not
28 scorable under RCW 9.94A.525 as enacted at the time the petition was
29 filed. Subject to (c) of this subsection, the court shall immediately
30 set an expedited date for resentencing. At the resentencing hearing,
31 there is a rebuttable presumption that the petitioner is entitled to
32 be resentenced by the court.

33 (a) The court may deny a motion for resentencing only if:

34 (i) The petitioner has a significant disciplinary record while
35 incarcerated. A petitioner's significant disciplinary record may be
36 overcome by a substantial period free from significant infractions
37 that precedes the petition;

38 (ii) The petitioner has an insignificant record of rehabilitation
39 while incarcerated;

1 (iii) The petitioner has engaged in pervasive and persistent
2 antisocial behavior while incarcerated;

3 (iv) The court determines by a preponderance of the evidence that
4 it is more likely than not that the person will commit new criminal
5 law violations if resentenced; or

6 (v) The court determines there is evidence of an extraordinary
7 adverse impact of the petitioner's release on the victim or survivors
8 of the victim of the crime for which the petitioner is presently
9 incarcerated, with special consideration given to the impact of
10 release on any victims of sex offenses or domestic violence offenses
11 committed against an intimate partner.

12 (b) If the court grants a petitioner's motion for resentencing,
13 the court shall sentence the offender as if any juvenile
14 adjudications that are not scorable under RCW 9.94A.525 as enacted at
15 the time the petition was filed were not part of the offender score
16 at the time the original sentence was imposed. Notwithstanding the
17 foregoing, the soonest allowable release date from total confinement
18 for an individual resentenced under this section may be no sooner
19 than six months after the date of the individual's resentencing
20 hearing.

21 (c) A court may not schedule a resentencing hearing under this
22 section before January 1, 2025.

23 (3) If the court denies a petition filed pursuant to this section
24 and declines to set a hearing, or grants a hearing but declines to
25 modify the petitioner's sentence at the hearing, the petitioner may,
26 upon a showing of a change in circumstances, file a new petition no
27 earlier than three years after the date the court denied the previous
28 petition or declined to modify the petitioner's sentence, unless the
29 court authorizes the petitioner to file a new petition at an earlier
30 date. If the court denies the petition or declines to modify the
31 petitioner's sentence, the court shall state the basis for its
32 decision on the record. The petitioner may appeal the denial of a
33 hearing or an order entered pursuant to a resentencing hearing,
34 provided, however, that denying a petition filed pursuant to this
35 section shall not reopen the petitioner's conviction or sentence to
36 any other challenges that would otherwise be barred.

37 (4) When an individual who has been resentenced under this
38 section is within six months of their expected release date from
39 total confinement, the department of corrections must prepare and

1 make available an individualized reentry plan under chapter 72.09 RCW
2 and the resources necessary for the individual to complete it.

3 (5) Any incarcerated individual who is eligible to file a
4 petition under this section and unable to afford counsel is entitled
5 to have counsel appointed, at no cost to the individual, to represent
6 the individual for the petition and proceedings under this section,
7 unless the individual expressly waives the right to counsel after
8 being fully advised of this right by the court. The right to
9 appointed counsel under this subsection does not establish a right to
10 appointed counsel for any appeal or second or subsequent petition
11 under this act.

12 (6) The office of crime victims advocacy shall contract with the
13 prosecuting attorneys offices to offer victim advocacy services for
14 victims impacted by this act. The victim services must include:

15 (a) Legal advocacy to understand the resentencing process and how
16 to exercise their rights;

17 (b) Safety planning;

18 (c) Options to participate in a restorative justice program with
19 the petitioner; and

20 (d) Case management to address needs that may arise as a result
21 of resentencing.

22 (7) The office of crime victims advocacy must establish a
23 flexible fund to support victims and survivors of victims impacted by
24 this act. The office may contract for administration of this fund.
25 Uses of the fund may include, but are not limited to:

26 (a) Relocation assistance related to a change in safety planning
27 associated with resentencing;

28 (b) Traveling to and from court for resentencing hearings; and

29 (c) Out-of-pocket expenses for psychotherapy associated with the
30 committed offense and the potential resentencing.

31 (8) The office of crime victims advocacy shall contract with an
32 entity with expertise in victim services to provide training for
33 victim advocates embedded within prosecuting attorneys' offices
34 regarding safety planning and other case management services that
35 victims impacted by this act may require.

36 (9) Beginning January 1, 2027, this section applies to all
37 individuals meeting the requirements of subsection (2) of this
38 section.

39 (10) Any person sentenced on or after July 1, 2024, for an
40 offense committed prior to July 23, 2023, shall have their offender

1 score calculated based on RCW 9.94A.525 as enacted as of July 1,
2 2024.

3 (11) This section applies retroactively to persons incarcerated
4 on the effective date of this section, regardless of the date of the
5 offense or conviction.

6 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2024.

7 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2024, in the omnibus appropriations act, this
10 act is null and void.

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