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**SENATE BILL 5715**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Kauffman, Frame, Hasegawa, Nobles, Trudeau, Valdez, and C. Wilson

AN ACT Relating to retroactively applying the requirement to exclude certain juvenile convictions from an offender score regardless of the date of the offense; adding a new section to chapter 9.94A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that, with the support of eight Washington tribal governments and indigenous organizations along with a broad array of other advocates, the legislature passed Engrossed House Bill No. 1324 in 2023 to end the practice of assigning "juvenile points" to lengthen state prison sentences. The legislature finds that black, indigenous, and people of color are disproportionately impacted by prior juvenile felony adjudications. The legislature recognizes that the 57 tribes of the affiliated tribes of northwest Indians have adopted a resolution urging the legislature to retroactively end the practice of assigning "juvenile points" to lengthen state prison sentences. Additionally, in 2024, an intertribal coalition of 23 tribal governments and indigenous organizations wrote the legislature to support ending this practice retroactively.

(2) The legislature acknowledges that historical, intergenerational trauma caused by the mass incarceration of indigenous children and juveniles through Indian boarding schools, where they endured physical and sexual violence, emotional abuse, and the separation and division of indigenous families, continues to deeply affect indigenous people today.

(3) The legislature further finds that the grave racial disproportionality within the juvenile legal system has the downstream effect of impacting sentencing ranges in adult court. The legislature recognizes that because of the expansive body of scientific research on brain development, which shows that adolescents' perception, judgment, and decision making differs significantly from that of adults, and based on the need to redress the harms of the past, it is sound public policy to make the changes enacted in Engrossed House Bill No. 1324 retroactive.

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

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

(a) The person is currently incarcerated in total confinement with a release date on the sentence of July 1, 2026, or later;

(b) Until July 1, 2027, the person:

(i) Has served at least 50 percent of their sentence; or

(ii) Has served at least 15 years of their sentence;

(c) After July 1, 2027, the person:

(i) Has served at least 25 percent of their sentence; or

(ii) Has served 10 years or more of their sentence;

(d) After July 1, 2028, the person:

(i) Has served at least 10 percent of their sentence; or

(ii) Has served at least five years of their sentence;

(e) After July 1, 2029, the person has served any amount of time on their sentence.

(2) The sentencing court shall grant the petition if it finds that the person meets the criteria under subsection (1) of this section and, subject to (c) of this subsection, the court shall immediately set an expedited date for the resentencing hearing. There is a rebuttable presumption that the petitioner is entitled to be resentenced by the court.

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

(i) The petitioner has a significant disciplinary record of serious infractions while incarcerated, including the following infractions identified in department of corrections policy DOC 460.050: 501, 502, 507, 511, 521, 550, 601, 602, 603, 604, 611, 613, 635, 637, 650, 830, 831, 882, 633, 704, 711. A petitioner's significant disciplinary record may be overcome by a two-year period free from serious violations that precedes the petition;

(ii) The petitioner has an insignificant record of rehabilitation and programming while incarcerated;

(iii) The court determines by a preponderance of the evidence that it is more likely than not that the person will commit new felony criminal law violations if resentenced. In making this determination the court shall consider evidence presented regarding the likelihood of the victim or surviving victims being revictimized.

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

(c) A court may not schedule a resentencing hearing under this section before January 1, 2026.

(3) If the court denies a petition under subsection (2)(a) of this section, the petitioner may, upon a showing of a change in circumstances, file a new petition no earlier than three years after the date the court denied the previous petition or declined to modify the petitioner's sentence, unless the court authorizes the petitioner to file a new petition at an earlier date. If the court denies the petition, the court shall state the basis for its decision on the record. The petitioner may appeal the denial of a petition or an order entered pursuant to a resentencing hearing, provided, however, that denying a petition filed pursuant to this section shall not reopen the petitioner's conviction or sentence to any other challenges that would otherwise be barred.

(4) When an individual who has been resentenced under this section is within six months of their expected release date from total confinement, the department of corrections will consider the individual reentry plan that has already been created under RCW 72.09.270 and is already periodically reviewed and updated under RCW 72.09.270.

(5) Subject to the availability of amounts appropriated for this specific purpose, any incarcerated individual who is eligible to file a petition under this section and unable to afford counsel is entitled to have counsel appointed, at no cost to the individual, to represent the individual for the petition and proceedings under this section, unless the individual expressly waives the right to counsel after being fully advised of this right by the court. The right to appointed counsel under this subsection does not establish a right to appointed counsel for any appeal or second or subsequent petition under this act.

(6) The legislature recognizes the rights that victims, survivors of victims, and witnesses of crimes have when incarcerated people are considered for resentencing based on a change in the law. Therefore, it is the intent of the legislature to ensure that victims, survivors of victims, and witnesses of crimes are afforded the opportunity to make a statement that will be considered during a hearing granted under this act. Prior to and during a resentencing hearing granted under this act, victims, survivors of victims, and witnesses of the crime for which the person is currently incarcerated have the following rights:

(a) To be informed by the prosecuting attorney of the date, time, and place of the resentencing hearing;

(b) To present a statement in person or by representation, via audiotape, videotape, or other electronic means, or in writing during the resentencing hearing; and

(c) All other rights afforded to victims and survivors of crime under the state Constitution and the Revised Code of Washington.

(7) The court may consider the impact of the petitioner's release on victims or survivors of the crime for which the petitioner is presently incarcerated, with special consideration given to the impact of release on any victims of sex offenses or domestic violence offenses.

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

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

(b) Safety planning;

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

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

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

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

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

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

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

(11) Any person sentenced on or after the effective date of this section, for an offense committed prior to July 23, 2023, whose offender score would be increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 at the time of sentencing shall have their offender score calculated based on RCW 9.94A.525 as enacted at the time of sentencing.

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

**--- END ---**