

**EHB 1187** - S AMD 641

By Senators Hargrove, Stevens, Carrell, Fairley

ADOPTED 04/21/2005

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION. **Sec. 1.** (1) The legislature finds that emerging  
4 research on brain development indicates that adolescent brains, and  
5 thus adolescent intellectual and emotional capabilities, differ  
6 significantly from those of mature adults. It is appropriate to take  
7 these differences into consideration when sentencing juveniles tried as  
8 adults. The legislature further finds that applying mandatory minimum  
9 sentences for juveniles tried as adults prevents trial court judges  
10 from taking these differences into consideration in appropriate  
11 circumstances.

12       (2) The legislature intends to eliminate the application of  
13 mandatory minimum sentences under RCW 9.94A.540 to juveniles tried as  
14 adults, and to continue to apply all other adult sentencing provisions  
15 to juveniles tried as adults.

16       **Sec. 2.** RCW 9.94A.540 and 2001 2nd sp.s. c 12 s 315 are each  
17 amended to read as follows:

18       (1) Except to the extent provided in subsection (3) of this  
19 section, the following minimum terms of total confinement are mandatory  
20 and shall not be varied or modified under RCW 9.94A.535:

21       (a) An offender convicted of the crime of murder in the first  
22 degree shall be sentenced to a term of total confinement not less than  
23 twenty years.

24       (b) An offender convicted of the crime of assault in the first  
25 degree or assault of a child in the first degree where the offender  
26 used force or means likely to result in death or intended to kill the  
27 victim shall be sentenced to a term of total confinement not less than  
28 five years.

1 (c) An offender convicted of the crime of rape in the first degree  
2 shall be sentenced to a term of total confinement not less than five  
3 years.

4 (d) An offender convicted of the crime of sexually violent predator  
5 escape shall be sentenced to a minimum term of total confinement not  
6 less than sixty months.

7 (2) During such minimum terms of total confinement, no offender  
8 subject to the provisions of this section is eligible for community  
9 custody, earned release time, furlough, home detention, partial  
10 confinement, work crew, work release, or any other form of early  
11 release authorized under RCW 9.94A.728, or any other form of authorized  
12 leave of absence from the correctional facility while not in the direct  
13 custody of a corrections officer. The provisions of this subsection  
14 shall not apply: (a) In the case of an offender in need of emergency  
15 medical treatment; (b) for the purpose of commitment to an inpatient  
16 treatment facility in the case of an offender convicted of the crime of  
17 rape in the first degree; or (c) for an extraordinary medical placement  
18 when authorized under RCW 9.94A.728(4).

19 (3)(a) Subsection (1) of this section shall not be applied in  
20 sentencing of juveniles tried as adults pursuant to RCW  
21 13.04.030(1)(e)(i).

22 (b) This subsection (3) applies only to crimes committed on or  
23 after the effective date of this act."

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24 On page 1, line 2 of the title, after "adults;" strike the  
25 remainder of the title and insert "amending RCW 9.94A.540; and creating  
26 a new section."

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