

SENATE BILL REPORT

2SSB 5610

As Passed Senate, January 24, 2018

Title: An act relating to the sentencing of persons under the age of twenty-one years at the time of the commission of a crime.

Brief Description: Concerning the sentencing of persons under the age of twenty-one years at the time of the commission of a crime.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Darneille, Hasegawa and Saldaña).

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/07/17, 2/14/17 [DPS, DNP].

Ways & Means: 2/20/17, 2/23/17 [DP2S, DNP, w/oRec].

Floor Activity:

Passed Senate: 1/24/18, 31-18.

Brief Summary of Second Substitute Bill

- Permits the sentencing judge to decide whether any sentence enhancements are served concurrently or consecutively when a juvenile is sentenced in adult court.
- Authorizes the sentencing court to exercise discretion to reduce the defendant's sentence when sentence enhancements result in a clearly excessive sentence.
- Authorizes a sentencing court to consider the defendant's age, sophistication, and role in the crime as mitigating factors permitting an exceptional sentence below the standard range.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 5610 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

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

Minority Report: Do not pass.
Signed by Senator Padden.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5610 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Braun, Chair; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senator Honeyford, Vice Chair, Capital Budget.

Minority Report: That it be referred without recommendation.

Signed by Senators Brown, Vice Chair; Becker, Padden and Schoesler.

Staff: Travis Sugarman (786-7446)

Background: When a juvenile is charged with specific serious or violent crimes, the case may be removed from juvenile court jurisdiction to adult court. In such cases, the juvenile is tried, and if convicted, is sentenced, as an adult. The court must impose a sentence within a standard sentencing range based on the severity of the crime and the defendant's criminal history unless there are reasons to impose an exceptional sentence outside the standard range. The court considers specified aggravating and mitigating factors in its sentencing decision. The court may impose a more severe exceptional sentence if there are sufficient aggravating circumstances, or a less severe exceptional sentence if there are sufficient mitigating circumstances. If the sentence is based on a multiple-count conviction, the court must decide whether the sentence for multiple counts should run one after another (consecutively) or simultaneously (concurrently). In some cases, the circumstances of the crime may require addition of a sentence enhancement, or may allow a prosecutor to allege special allegations, that increases the sentence's severity.

When a juvenile is tried and sentenced as an adult, the court considers the standard sentence range, any exceptional sentence aggravating or mitigating factors, and whether sentence enhancements or special allegations apply to the crime's circumstances. Current law does not distinguish juveniles from adults with respect to its discretion to impose sentences concurrently or consecutively, or whether the age, experience, or understanding of the youth offender is a mitigating factor. A sentence that is appropriate for an adult in some circumstances may be excessive when applied to a minor who is tried as an adult.

Summary of Second Substitute Bill: When a juvenile is tried and convicted as an adult, the sentencing judge has discretion to decide whether the offender must serve all sentence enhancements concurrently or consecutively. If the court determines that imposing sentence enhancements would result in a clearly excessive sentence for a juvenile tried as an adult, the

court may reduce the sentence. When a juvenile is sentenced in adult court, the judge may consider the defendant's age, sophistication, and role in the crime as mitigating factors allowing an exceptional sentence below the standard range for the crime.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Human Services, Mental Health & Housing): *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.* PRO: King county is releasing a report on its experience with auto-decline cases—referral of a juvenile case to adult court without a decline hearing. This bill gives a sentencing judge discretion to find mitigation but takes away the judge's discretion to decide whether enhancements should be served concurrently or consecutively. It requires enhancements be served concurrently. The judge should retain discretion. A judge should not have to apologize if he or she decides serving enhancements consecutively is appropriate under the case circumstances. Juveniles can act impulsively, and a sentence with consecutively served enhancements, or multiple enhancements may be clearly excessive. Whether a sentence is clearly excessive is appealable. If a court imposes a sentence outside the standard range for the crime, the judge must articulate why a sentence outside the standard range is appropriate; such sentences are also appealable. There is no objection to allowing the court discretion to reduce a sentence, but taking away the judge's discretion about concurrently serving sentence enhancements should not be approved.

Persons Testifying (Human Services, Mental Health & Housing): PRO: Dan Satterberg, WAPA, King County Prosecuting Attorney.

Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.* PRO: This bill has to do with 16 and 17 year olds convicted of serious crimes. Currently, there is no discretion for the courts to determine sentencing. This all sprung from a case in Tacoma where a group of kids were stealing candy and one individual brandished a gun. One of the sentences was 27 years and another sentence was 31 years. This bill addresses enhancements and gives more discretion when setting the time for the crime. We believe this pertains to both parts of sentencing, standard range of the crime and the length of sentencing for enhancements. I believe there needs to be a change to the part that speaks to the enhancements being able to run concurrently to make it clear the enhancements can run concurrently in order to reduce an excessive sentence.

Persons Testifying (Ways & Means): PRO: Senator Jeannie Darneille, Prime Sponsor; Tom McBride, WA Assn. of Pros Attys.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.