**1646-S2.E AMS HSRR S3004.5 - NOT FOR FLOOR USE**

**E2SHB 1646** - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

**ADOPTED 04/15/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature recognizes state and national efforts to reform policies that incarcerate youth and young adults in the adult criminal justice system. The legislature acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior. Youth and young adults incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted even of the most serious violent offenses under the adult criminal justice system. Juveniles adjudicated as adults should be served and housed within the facilities of the juvenile rehabilitation administration up until age twenty-five, but released earlier if their sentence ends prior to that. In doing so, the legislature takes advantage of recent changes made by congress during the reauthorization of the juvenile justice and delinquency prevention act by the juvenile justice reform act of 2018 that allow youth and young adults who at the time of their offense are younger than the maximum age of confinement in a juvenile correctional facility, to be placed in a juvenile correctional facility by operation of state law. The emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities.

**Sec.**  RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each amended to read as follows:

(1) Whenever any ((~~child under the age of eighteen~~)) person is convicted as an adult in the courts of this state of a ((~~crime amounting to a~~)) felony offense committed under the age of eighteen, and is committed for a term of confinement, that ((~~child~~)) person shall be initially placed in a facility operated by the department of ((~~corrections to~~)) children, youth, and families. The department of corrections shall determine the ((~~child's~~)) person's earned release date.

(a) ((~~If the earned release date is prior to the child's twenty-first birthday, the department of corrections shall transfer the child to the custody of the department of children, youth, and families, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty-one years.~~

~~(i)~~)) While in the custody of the department of children, youth, and families, the ((~~child~~)) person must have the same treatment, housing options, transfer, and access to program resources as any other ((~~child~~)) person committed ((~~directly~~)) to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The ((~~youth~~)) person shall ((~~only~~)) not be transferred ((~~back~~)) to the custody of the department of corrections ((~~with~~)) without the approval of the department of children, youth, and families ((~~or when the child~~)) until the person reaches the age of ((~~twenty-one~~)) twenty-five.

((~~(ii)~~)) (b) If the ((~~child's~~)) person's sentence includes a term of community custody, the department of children, youth, and families shall not release the ((~~child~~)) person to community custody until the department of corrections has approved the ((~~child's~~)) person's release plan pursuant to RCW 9.94A.729(5)(b). If a ((~~child~~)) person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the ((~~child~~)) person completes the ordered term of confinement prior to age ((~~twenty-one~~)) twenty-five.

((~~(iii)~~)) (c) If the department of children, youth, and families determines that retaining custody of the ((~~child~~)) person in a facility of the department of children, youth, and families presents a significant safety risk, the ((~~child may be returned~~)) department of children, youth, and families may transfer the person to the custody of the department of corrections.

((~~(b) If the child's earned release date is on or after the child's twenty-first birthday, the department of corrections shall, with the consent of the secretary of children, youth, and families, transfer the child to a facility or institution operated by the department of children, youth, and families. Despite the transfer,~~)) (d) The department of corrections ((~~retains~~)) must retain authority over custody decisions relating to a person whose earned release date is on or after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under section 6 of this act, and must approve any leave from the facility. When the ((~~child~~)) person turns age ((~~twenty-one~~)) twenty-five, he or she must be transferred ((~~back~~)) to the department of corrections, except as described under section 6 of this act. The department of children, youth, and families has all routine and day-to-day operations authority for the ((~~child~~)) person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, ((~~an offender~~)) a person under the age of eighteen who is ((~~convicted in adult criminal court and who is committed to a term of confinement at~~)) transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from ((~~offenders~~)) other persons in custody who are eighteen years of age or older, until the ((~~offender~~)) person reaches the age of eighteen.

(b) ((~~An offender~~)) A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for ((~~offenders~~)) persons under the age of eighteen if the secretary of corrections determines that: (i) The ((~~offender's~~)) person's needs and the ((~~correctional~~)) rehabilitation goals for the ((~~offender~~)) person could continue to be better met by the programs and housing environment that is separate from ((~~offenders~~)) other persons in custody who are eighteen years of age and older; and (ii) the programs or housing environment for ((~~offenders~~)) persons under the age of eighteen will not be substantially affected by the continued placement of the ((~~offender~~)) person in that environment. The ((~~offender~~)) person may remain placed in a housing unit for ((~~offenders~~)) persons under the age of eighteen until such time as the secretary of corrections determines that the ((~~offender's~~)) person's needs and ((~~correctional~~)) goals are no longer better met in that environment but in no case past the ((~~offender's twenty-first~~)) person's twenty-fifth birthday.

(c) ((~~An offender~~)) A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday.

**Sec.**  RCW 13.40.300 and 2018 c 162 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a juvenile offender may not be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile ((~~correctional institution~~)) rehabilitation facility beyond the juvenile offender's twenty-first birthday.

(2) A juvenile offender ((~~convicted~~)) adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), may be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile ((~~correctional institution~~)) rehabilitation facility up to the juvenile offender's twenty-fifth birthday, but not beyond.

(3) A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of children, youth, and families beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday, except:

(i) If the court enters a written order extending jurisdiction under this subsection, it shall not extend jurisdiction beyond the juvenile's twenty-first birthday;

(ii) If the order fails to specify a specific date, it shall be presumed that jurisdiction is extended to age twenty-one; and

(iii) If the juvenile court previously extended jurisdiction beyond the juvenile's eighteenth birthday, and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition;

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition, subject to the following:

(i) If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday, except;

(ii) If an order of disposition imposes a commitment to the department for a juvenile offender ((~~convicted~~)) adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole is automatically extended to include a period of up to twenty-four months of parole, in no case extending beyond the offender's twenty-fifth birthday;

(d) While proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of ((~~a lesser included~~)) an offense that is not also an offense listed in RCW 13.04.030(1)(e)(v), and an automatic extension is necessary to impose the juvenile disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

(e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the juvenile court maintains jurisdiction beyond the juvenile offender's twenty-first birthday for the purpose of enforcing an order of restitution or penalty assessment.

(4) Except as otherwise provided herein, in no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(5) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

NEW SECTION. **Sec.**  A new section is added to chapter 72.01 RCW to read as follows:

(1) Any person in the custody of the department of social and health services or the department of children, youth, and families on or before the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, must remain in the custody of the department of children, youth, and families until transfer to the department of corrections or release pursuant to RCW 72.01.410.

(2) Any person in the custody of the department of corrections on the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, and who has not yet reached the age of twenty-five, is eligible for transfer to the custody of the department of children, youth, and families beginning January 1, 2020, subject to the process established in subsection (3) of this section.

(3) By February 1, 2020, the department of corrections and the department of children, youth, and families must review and determine whether a person identified in subsection (2) of this section should transfer from the department of corrections to the department of children, youth, and families through the following process:

(a) No later than September 1, 2019, the department of corrections and the department of children, youth, and families shall establish, through a memorandum of understanding, a multidisciplinary interagency team to conduct a case-by-case review of the transfer of persons from the department of corrections to the department of children, youth, and families pursuant to subsection (2) of this section. The multidisciplinary interagency team must include a minimum of three representatives from the department of corrections and three representatives from the department of children, youth, and families, and must provide the person whose transfer is being considered an opportunity to consent to the transfer. In considering whether a transfer to the department of children, youth, and families is appropriate, the multidisciplinary interagency team may consider any relevant factors including, but not limited to:

(i) The safety and security of the person, staff, and other persons in the custody of the department of children, youth, and families;

(ii) The person's behavior and assessed risks and needs;

(iii) Whether the department of children, youth, and families or the department of corrections' programs are better equipped to facilitate successful rehabilitation and reentry into the community; and

(iv) Any statements regarding the transfer made by the person whose transfer is being considered.

(b) After reviewing each proposed transfer, the multidisciplinary interagency team shall make a recommendation regarding the transfer to the secretaries of the department of children, youth, and families and the department of corrections. This recommendation must be provided to the secretaries of each department by January 1, 2020.

(c) The secretaries of the department of children, youth, and families and the department of corrections, or their designees, shall approve or deny the transfer within thirty days of receiving the recommendation of the multidisciplinary interagency team, and by no later than February 1, 2020.

(4) This section expires July 1, 2021.

**Sec.**  2018 c 162 s 9 (uncodified) is amended to read as follows:

(1) The Washington state institute for public policy must:

(a) Assess the impact of ((~~this act~~)) chapter 162, Laws of 2018, and sections 2 through 6, chapter . . ., Laws of 2019 (sections 2 through 6 of this act) on community safety, racial disproportionality, recidivism, state expenditures, and youth rehabilitation, to the extent possible((~~,~~)); and

(b) Conduct a cost-benefit analysis, including health impacts and recidivism effects, of extending RCW 72.01.410 to include all offenses committed under the age of twenty-one.

(2) The institute shall submit, in compliance with RCW 43.01.036, a preliminary report on the requirements listed in subsection (1) of this section to the governor and the appropriate committees of the legislature by December 1, 2023, and a final report to the governor and the appropriate committees of the legislature by December 1, 2031.

NEW SECTION. **Sec.**  A new section is added to chapter 72.01 RCW to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 who has an earned release date that is after the person's twenty-fifth birthday but on or before the person's twenty-sixth birthday may, after turning twenty-five, serve the remainder of the person's term of confinement in partial confinement on electronic home monitoring under the authority and supervision of the department of children, youth, and families, provided that the department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community. The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

(2) A person placed on electronic home monitoring under this section must otherwise continue to be subject to similar treatment, options, access to programs and resources, conditions, and restrictions applicable to other similarly situated persons under the jurisdiction of the department of children, youth, and families. If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(3) If a person placed on electronic home monitoring under this section commits a violation requiring the return of the person to total confinement, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall meet regularly with the school districts that educate students who are in the custody of medium and maximum security facilities operated by juvenile rehabilitation to help coordinate activities in areas of common interest, such as communication with parents. The office of the superintendent of public instruction shall facilitate upon request of the department.

(2) The office of the superintendent of public instruction, in collaboration with the department, shall create a comprehensive plan for the education of students in juvenile rehabilitation and provide it to the governor and relevant committees of the legislature by September 1, 2020.

**Sec.**  RCW 13.40.0357 and 2018 c 162 s 3 are each amended to read as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DESCRIPTION AND OFFENSE CATEGORY** | | | | |
| juvenile  disposition  offense  category | | description (rcw citation) | juvenile disposition  category for  attempt, bailjump,  conspiracy, or  solicitation | |
|  | | **Arson and Malicious Mischief** | | |
|  | A | Arson 1 (9A.48.020) | | B+ |
|  | B | Arson 2 (9A.48.030) | | C |
|  | C | Reckless Burning 1 (9A.48.040) | | D |
|  | D | Reckless Burning 2 (9A.48.050) | | E |
|  | B | Malicious Mischief 1 (9A.48.070) | | C |
|  | C | Malicious Mischief 2 (9A.48.080) | | D |
|  | D | Malicious Mischief 3 (9A.48.090) | | E |
|  | E | Tampering with Fire Alarm Apparatus (9.40.100) | | E |
|  | E | Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105) | | E |
|  | A | Possession of Incendiary Device (9.40.120) | | B+ |
|  |  | **Assault and Other Crimes Involving Physical Harm** | |  |
|  | A | Assault 1 (9A.36.011) | | B+ |
|  | B+ | Assault 2 (9A.36.021) | | C+ |
|  | C+ | Assault 3 (9A.36.031) | | D+ |
|  | D+ | Assault 4 (9A.36.041) | | E |
|  | B+ | Drive-By Shooting (9A.36.045) committed at age 15 or under | | C+ |
|  | A++ | Drive-By Shooting (9A.36.045) committed at age 16 or 17 | | ((~~A+~~)) A |
|  | D+ | Reckless Endangerment (9A.36.050) | | E |
|  | C+ | Promoting Suicide Attempt (9A.36.060) | | D+ |
|  | D+ | Coercion (9A.36.070) | | E |
|  | C+ | Custodial Assault (9A.36.100) | | D+ |
|  |  | **Burglary and Trespass** | |  |
|  | B+ | Burglary 1 (9A.52.020) committed at  age 15 or under | | C+ |
|  | A- | Burglary 1 (9A.52.020) committed at  age 16 or 17 | | B+ |
|  | B | Residential Burglary (9A.52.025) | | C |
|  | B | Burglary 2 (9A.52.030) | | C |
|  | D | Burglary Tools (Possession of) (9A.52.060) | | E |
|  | D | Criminal Trespass 1 (9A.52.070) | | E |
|  | E | Criminal Trespass 2 (9A.52.080) | | E |
|  | C | Mineral Trespass (78.44.330) | | C |
|  | C | Vehicle Prowling 1 (9A.52.095) | | D |
|  | D | Vehicle Prowling 2 (9A.52.100) | | E |
|  |  | **Drugs** | |  |
|  | E | Possession/Consumption of Alcohol (66.44.270) | | E |
|  | C | Illegally Obtaining Legend Drug (69.41.020) | | D |
|  | C+ | Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a)) | | D+ |
|  | E | Possession of Legend  Drug (69.41.030(2)(b)) | | E |
|  | B+ | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b)) | | B+ |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c)) | | C |
|  | E | Possession of Marihuana <40 grams (69.50.4014) | | E |
|  | C | Fraudulently Obtaining Controlled Substance (69.50.403) | | C |
|  | C+ | Sale of Controlled Substance for Profit (69.50.410) | | C+ |
|  | E | Unlawful Inhalation (9.47A.020) | | E |
|  | B | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b)) | | B |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e)) | | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013) | | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012) | | C |
|  |  | **Firearms and Weapons** | |  |
|  | B | Theft of Firearm (9A.56.300) | | C |
|  | B | Possession of Stolen Firearm  (9A.56.310) | | C |
|  | E | Carrying Loaded Pistol Without Permit (9.41.050) | | E |
|  | C | Possession of Firearms by Minor (<18) (9.41.040(2)(a) ((~~(iv)~~)) (v)) | | C |
|  | D+ | Possession of Dangerous Weapon (9.41.250) | | E |
|  | D | Intimidating Another Person by use of Weapon (9.41.270) | | E |
|  |  | **Homicide** | |  |
|  | A+ | Murder 1 (9A.32.030) | | A |
|  | A+ | Murder 2 (9A.32.050) | | B+ |
|  | B+ | Manslaughter 1 (9A.32.060) | | C+ |
|  | C+ | Manslaughter 2 (9A.32.070) | | D+ |
|  | B+ | Vehicular Homicide (46.61.520) | | C+ |
|  |  | **Kidnapping** | |  |
|  | A | Kidnap 1 (9A.40.020) | | B+ |
|  | B+ | Kidnap 2 (9A.40.030) | | C+ |
|  | C+ | Unlawful Imprisonment (9A.40.040) | | D+ |
|  |  | **Obstructing Governmental Operation** | |  |
|  | D | Obstructing a Law Enforcement Officer (9A.76.020) | | E |
|  | E | Resisting Arrest (9A.76.040) | | E |
|  | B | Introducing Contraband 1 (9A.76.140) | | C |
|  | C | Introducing Contraband 2 (9A.76.150) | | D |
|  | E | Introducing Contraband 3 (9A.76.160) | | E |
|  | B+ | Intimidating a Public Servant (9A.76.180) | | C+ |
|  | B+ | Intimidating a Witness (9A.72.110) | | C+ |
|  |  | **Public Disturbance** | |  |
|  | C+ | Criminal Mischief with Weapon (9A.84.010(2)(b)) | | D+ |
|  | D+ | Criminal Mischief Without Weapon (9A.84.010(2)(a)) | | E |
|  | E | Failure to Disperse (9A.84.020) | | E |
|  | E | Disorderly Conduct (9A.84.030) | | E |
|  |  | **Sex Crimes** | |  |
|  | A | Rape 1 (9A.44.040) | | B+ |
|  | B++ | Rape 2 (9A.44.050) committed at age 14 or under | | B+ |
|  | A- | Rape 2 (9A.44.050) committed at age 15 through age 17 | | B+ |
|  | C+ | Rape 3 (9A.44.060) | | D+ |
|  | B++ | Rape of a Child 1 (9A.44.073)  committed at age 14 or under | | B+ |
|  | A- | Rape of a Child 1 (9A.44.073)  committed at age 15 | | B+ |
|  | B+ | Rape of a Child 2 (9A.44.076) | | C+ |
|  | B | Incest 1 (9A.64.020(1)) | | C |
|  | C | Incest 2 (9A.64.020(2)) | | D |
|  | D+ | Indecent Exposure (Victim <14) (9A.88.010) | | E |
|  | E | Indecent Exposure (Victim 14 or over) (9A.88.010) | | E |
|  | B+ | Promoting Prostitution 1 (9A.88.070) | | C+ |
|  | C+ | Promoting Prostitution 2 (9A.88.080) | | D+ |
|  | E | O & A (Prostitution) (9A.88.030) | | E |
|  | B+ | Indecent Liberties (9A.44.100) | | C+ |
|  | B++ | Child Molestation 1 (9A.44.083) committed at age 14 or under | | B+ |
|  | A- | Child Molestation 1 (9A.44.083) committed at age 15 through age 17 | | B+ |
|  | B | Child Molestation 2 (9A.44.086) | | C+ |
|  | C | Failure to Register as a Sex Offender (9A.44.132) | | D |
|  |  | **Theft, Robbery, Extortion, and Forgery** | |  |
|  | B | Theft 1 (9A.56.030) | | C |
|  | C | Theft 2 (9A.56.040) | | D |
|  | D | Theft 3 (9A.56.050) | | E |
|  | B | Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083) | | C |
|  | C | Forgery (9A.60.020) | | D |
|  | A | Robbery 1 (9A.56.200) committed at  age 15 or under | | B+ |
|  | A++ | Robbery 1 (9A.56.200) committed at  age 16 or 17 | | ((~~A+~~))  A |
|  | B+ | Robbery 2 (9A.56.210) | | C+ |
|  | B+ | Extortion 1 (9A.56.120) | | C+ |
|  | C+ | Extortion 2 (9A.56.130) | | D+ |
|  | C | Identity Theft 1 (9.35.020(2)) | | D |
|  | D | Identity Theft 2 (9.35.020(3)) | | E |
|  | D | Improperly Obtaining Financial Information (9.35.010) | | E |
|  | B | Possession of a Stolen Vehicle (9A.56.068) | | C |
|  | B | Possession of Stolen Property 1 (9A.56.150) | | C |
|  | C | Possession of Stolen Property 2 (9A.56.160) | | D |
|  | D | Possession of Stolen Property 3 (9A.56.170) | | E |
|  | B | Taking Motor Vehicle Without Permission 1 (9A.56.070) | | C |
|  | C | Taking Motor Vehicle Without Permission 2 (9A.56.075) | | D |
|  | B | Theft of a Motor Vehicle (9A.56.065) | | C |
|  |  | **Motor Vehicle Related Crimes** | |  |
|  | E | Driving Without a License (46.20.005) | | E |
|  | B+ | Hit and Run - Death (46.52.020(4)(a)) | | C+ |
|  | C | Hit and Run - Injury (46.52.020(4)(b)) | | D |
|  | D | Hit and Run-Attended (46.52.020(5)) | | E |
|  | E | Hit and Run-Unattended (46.52.010) | | E |
|  | C | Vehicular Assault (46.61.522) | | D |
|  | C | Attempting to Elude Pursuing Police Vehicle (46.61.024) | | D |
|  | E | Reckless Driving (46.61.500) | | E |
|  | D | Driving While Under the Influence (46.61.502 and 46.61.504) | | E |
|  | B+ | Felony Driving While Under the Influence (46.61.502(6)) | | B |
|  | B+ | Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6)) | | B |
|  |  | **Other** | |  |
|  | B | Animal Cruelty 1 (16.52.205) | | C |
|  | B | Bomb Threat (9.61.160) | | C |
|  | C | Escape 11 (9A.76.110) | | C |
|  | C | Escape 21 (9A.76.120) | | C |
|  | D | Escape 3 (9A.76.130) | | E |
|  | E | Obscene, Harassing, Etc., Phone Calls (9.61.230) | | E |
|  | A | Other Offense Equivalent to an Adult Class A Felony | | B+ |
|  | B | Other Offense Equivalent to an Adult Class B Felony | | C |
|  | C | Other Offense Equivalent to an Adult Class C Felony | | D |
|  | D | Other Offense Equivalent to an Adult Gross Misdemeanor | | E |
|  | E | Other Offense Equivalent to an Adult Misdemeanor | | E |
|  | V | Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)2 | | V |

1Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

2If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | OPTION A  JUVENILE OFFENDER SENTENCING GRID  STANDARD RANGE | | | | |
|  | A++ | 129 to 260 weeks for all category A++ offenses | | | | |
|  | A+ | 180 weeks to age 21 for all category A+ offenses | | | | |
|  | A | 103-129 weeks for all category A offenses | | | | |
|  | A- | 30-40 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
|  | B++ | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
| CURRENT | B+ | 15-36 weeks | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks |
| OFFENSE | B | LS | LS | 15-36 weeks | 15-36 weeks | 52-65 weeks |
| CATEGORY | C+ | LS | LS | LS | 15-36 weeks | 15-36 weeks |
|  | C | LS | LS | LS | LS | 15-36 weeks |
|  | D+ | LS | LS | LS | LS | LS |
|  | D | LS | LS | LS | LS | LS |
|  | E | LS | LS | LS | LS | LS |
| PRIOR | | 0 | 1 | 2 | 3 | 4 or more |
| ADJUDICATIONS |  |  | | | |  |

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec.**  RCW 13.04.030 and 2018 c 162 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of ((~~a lesser included~~)) an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d). ((~~However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.~~))

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services and the department of children, youth, and families.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapter((~~s~~)) 26.09 ((~~and 26.26~~)), 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec.**  RCW 13.40.110 and 2018 c 162 s 4 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction only if:

(a) The respondent is, at the time of proceedings, at least fifteen years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030; ((~~or~~))

(b) The respondent is, at the time of proceedings, fourteen years of age or younger and is charged with murder in the first degree (RCW 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

(c) The respondent is any age and is charged with custodial assault, RCW 9A.36.100, and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age twenty-one.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, sections 1 through 6 of this act are null and void."

**E2SHB 1646** - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

**ADOPTED 04/15/2019**

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 72.01.410, 13.40.300, 13.40.0357, 13.04.030, and 13.40.110; amending 2018 c 162 s 9 (uncodified); adding new sections to chapter 72.01 RCW; adding a new section to chapter 43.216 RCW; creating new sections; prescribing penalties; and providing an expiration date."

EFFECT: (1) Removes the increase in the maximum age of juvenile jurisdiction until age 25 for minors who are adjudicated in juvenile court for a serious violent offense or a violent offense when the minor has a specified criminal history.

(2) Applies the opportunity for transfer to Juvenile Rehabilitation (JR) to persons sentenced as adults who are under 18 at the time of the offense, instead of persons who are under 18 at the time of conviction.

(3) Replaces the terms "individual" and "offender" with "person" and replaces "when the individual reaches the maximum age of juvenile offender commitment by a juvenile court for the same offense provided under RCW 13.40.300" with "age twenty-five."

(4) Allows persons in the custody of the Department of Children, Youth, and Families (DCYF) who have an earned release date after their 25th birthday but on or before their 26th birthday to serve the remainder of their sentence after their 25th birthday in partial confinement under the authority and supervision of DCYF.

(5) Requires DCYF to meet regularly with school districts who educate students in the custody of medium and maximum security JR institutions in order to coordinate activities of common interest.

(6) Requires the Superintendent of Public Instruction in collaboration with DCYF to create a comprehensive plan for the education of students in JR and provide it to the Governor and Legislative committees by September 1, 2020.

(7) Reduces sentencing ranges in juvenile court for attempted drive-by shooting and attempted robbery first degree when committed at age 16 or 17.

(8) Eliminates a discretionary decline hearing when an offense is automatically transferred from adult court to juvenile court for disposition, and allows a discretionary decline hearing when a juvenile is charged with custodial assault in juvenile court while serving a sentence in JR until age 21.

(9) Expands the study by the Washington State Institute for Public Policy to include a cost-benefit analysis, including health and recidivism effects, of increasing confinement in JR to include persons sentenced in adult court for offenses committed under the age of 21.

(10) Amends the null and void clause to apply to sections 1 through 6.