

FINAL BILL REPORT

E2SHB 1646

C 322 L 19
Synopsis as Enacted

Brief Description: Concerning confinement in juvenile rehabilitation facilities.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Goodman, Eslick, Senn, Corry, Irwin, Griffey, Lovick, Graham, Davis, Frame, Appleton, Jinkins, Valdez and Ormsby).

House Committee on Human Services & Early Learning
House Committee on Appropriations
Senate Committee on Human Services, Reentry & Rehabilitation
Senate Committee on Ways & Means

Background:

Juvenile Rehabilitation Institutions.

The Department of Social and Health Services (DSHS) operates three juvenile institutions for juveniles convicted of crimes and sentenced to more than 30 days of confinement. Echo Glen Children's Center in Snoqualmie serves younger male offenders and female offenders. Green Hill School in Chehalis serves older male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program.

On July 1, 2019, the juvenile rehabilitation functions of the DSHS will transfer to the Department of Children, Youth, and Families (DCYF).

Adult Court Jurisdiction Over Juveniles.

Juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under the age of 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts. There are three situations where adult criminal courts may have jurisdiction over persons under age 18:

- The juvenile court declines jurisdiction to adult court following a discretionary decline hearing which a court can initiate on its own motion, or any party may file a motion requesting the court transfer the juvenile to adult court only if:
 - the respondent is at least age 15 and is charged with a serious violent offense;
 - or

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.

- the respondent is age 14 or younger and is charged with Murder in the first or second degree.
- The juvenile court is required to hold a decline hearing in circumstances when the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
- Adult criminal courts have exclusive jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
 - a serious violent offense;
 - a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense, two or more prior violent offenses, or three or more of any combination of class A felonies, class B felonies, Vehicular Assault, or Manslaughter in the second degree; or
 - Rape of a Child in the first degree.

Once a juvenile is declined to adult court jurisdiction, he or she will be subject to adult court jurisdiction for all future alleged crimes unless the juvenile is found not guilty. If the juvenile is found not guilty of the charge for which he or she was transferred to adult court or is convicted of a lesser offense, the juvenile court will have jurisdiction of the remaining charges in the case.

Juveniles convicted of felony crimes in adult court are placed in a Department of Corrections (DOC) facility to determine that child's earned release date. If that earned release date is before a youth's twenty-first birthday, the DOC shall transfer the youth to a juvenile institution operated by the DSHS. If a child's earned release date is on or after the individual's twenty-first birthday, the DOC shall, with the consent of the DSHS, transfer the individual to a DSHS facility until the individual turns 21 years old, at which time the individual shall be transferred back to the DOC custody.

If a juvenile is 16 or 17 years old, and he or she is charged with a traffic, fish, boating, or game offense, or an infraction, the case is referred to district or municipal court.

Juvenile Offender Sentencing.

Juvenile court dispositions are subject to statutory sentencing guidelines.

Juvenile offenses are categorized using letters E through A++ to indicate the seriousness level of the offense with E being the least serious and A++ being the most serious offense category. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication counts as one point and each prior violation, misdemeanor, or gross misdemeanor counts as one-fourth point. Fractional points are rounded down.

The sentencing category called local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community service, up to 150 hours of community service, and up to a \$500 fine. When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility.

Any confinement imposed that is greater than 30 days is served through commitment at a DSHS juvenile rehabilitation facility.

If the court concludes that disposition within the standard range would effectuate a manifest injustice, the court must impose a disposition outside the standard range. A court's finding of manifest injustice must be supported by clear and convincing evidence.

Generally, a juvenile offender cannot be committed by the juvenile court beyond age 21. However, juvenile courts may commit individuals up to age 25 if the individual is age 16 or 17 at the time of a Drive-by Shooting or Robbery in the first degree offense, or if the juvenile is sentenced to a 12-month firearm enhancement.

Serious Violent Offense.

A serious violent offense is an offense category which includes:

- Murder in the first degree;
- Homicide by Abuse;
- Murder in the second degree;
- Manslaughter in the first degree;
- Assault in the first degree;
- Kidnapping in the first degree;
- Rape in the first degree;
- Assault of a Child in the first degree; or
- an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies.

Violent Offense.

A violent offense is an offense category which includes:

- class A felonies or an attempt to commit a class A felony;
- criminal solicitation of or criminal conspiracy to commit a class A felony;
- Manslaughter in the first degree;
- Manslaughter in the second degree;
- Indecent Liberties if committed by forcible compulsion;
- Kidnapping in the second degree;
- Arson in the second degree;
- Assault in the second degree;
- Assault of a Child in the second degree;
- Extortion in the first degree;
- Robbery in the second degree;
- Drive-by Shooting;
- Vehicular Assault when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner; and
- Vehicular Homicide when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug, or by the operation of any vehicle in a reckless manner.

Summary:

Individuals convicted in adult court of a crime that was committed while under age 18 are placed in the initial custody of the DCYF instead of the DOC. Individuals convicted in adult court of a crime that was committed while under age 18 may remain in the custody of the DCYF until the individual reaches age 25.

The DCYF is required to review the placement of an individual over age 21 who was placed in the custody of the DCYF following a conviction in adult court for a crime that was committed while under age 18 to determine whether the individual should be transferred to the DOC. This must happen at least once before the individual's twenty-third birthday.

Individuals in the custody of the DOC on the effective date of the act who were convicted in adult court of a crime that was committed while under age 18 who have not reached the maximum age of juvenile court confinement are eligible for transfer to the DCYF starting January 1, 2020, based on the following:

- By September 1, 2019, the DCYF and the DOC must establish a multidisciplinary team including three representatives from each agency and consider certain factors for a recommendation regarding transfer to the DCYF by January 1, 2020.
- By February 1, 2020, the DOC and the DCYF must review and determine whether these individuals should transfer to the DCYF.

The Washington State Institute for Public Policy (WSIPP) must assess the impact of the act on community safety, racial disproportionality, and youth rehabilitation and submit a preliminary report to the Governor and the Legislature by December 1, 2023, and a final report by December 1, 2031. These reports must include a cost-benefit analysis of extending authority for the DCYF to maintain custody over individuals who commit offenses under age 21.

A person in the custody of the DCYF with an earned release date between age 25 and 26 may serve the remainder of his or her sentence in partial confinement on electronic home monitoring under the authority and supervision of the DCYF provided that the DCYF finds that such placement is in the best interest of the person and the community. If a person placed on electronic home monitoring commits a violation requiring the return to total confinement, the person must be transferred to the custody and supervision of the DOC for the remainder of his or her sentence.

The DCYF must meet regularly with school districts that educate students in the custody of a juvenile rehabilitation facility to help coordinate activities in common interest. The Office of the Superintendent of Public Instruction must also create a comprehensive plan for the education of students in juvenile rehabilitation and provide this plan to the Governor and Legislature by September 1, 2020.

The offense category for attempted Drive-By Shooting and attempted Robbery 1 committed at age 16 or 17 is reduced from an A+ to an A offense.

The ability for a court to hold a decline hearing to determine whether to retain the case in juvenile court for remaining charges in any case in which the juvenile is found not guilty in adult criminal court is eliminated.

Discretionary decline is expanded to include individuals charged with custodial assault while serving a minimum sentence to age 21.

Votes on Final Passage:

House	76	22	
Senate	29	19	(Senate amended)
House	56	38	(House concurred)

Effective: July 28, 2019