
Human Services & Early Learning Committee

HB 2064

Brief Description: Concerning juvenile justice.

Sponsors: Representatives Frame, Ortiz-Self, Goodman, Callan, Senn, Thai and Davis.

Brief Summary of Bill

- Modifies juvenile offender sentencing including reducing the offense category for attempt, conspiracy, bailjump, or solicitation related to Drive-by Shooting and Robbery in the first degree and expanding the high end of the A+ juvenile sentencing range.
- Adds rehabilitation services designed for individuals ages 18 through 25 with criminal justice experience to the inventory of evidence-based, research-based, and promising practices produced by the Washington State Institute for Public Policy and the University of Washington (UW) Evidence Based Practice Institute.
- Requires the Department of Children, Youth, and Families (DCYF) to provide secure internet access, mobile construction pre-apprenticeship training programs, and post-secondary education opportunities to individuals serving a term of confinement.
- Requires the DCYF to develop and implement site testing providing individuals serving a term of confinement with the DCYF access to digital learning through secure laptops from October 1, 2019, until July 1, 2021.
- Requires the DCYF to convene a background check work group and an employment pathways work group related to juvenile institutions.
- Requires the UW to convene an interdisciplinary work group to develop recommendations for updating policies related to evidence-based child and juvenile services.

Hearing Date: 2/19/19

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.

Staff: Luke Wickham (786-7146).

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.

In the State of Washington, 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
 - 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 jurisdiction, he or she will be subject to adult 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 "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. A juvenile court may order performance of a number of hours of community restitution instead of a monetary restitution penalty if the court determines that a juvenile has insufficient funds to pay and upon agreement of the victim.

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 of Bill:

Juvenile Court and Sentencing.

The ability for courts to use the discretionary decline process to consider transfer of a case to adult court after adult court transfers a case back to juvenile court following a not guilty finding and there are remaining charges or a finding of guilt for an offense that does not result in exclusive adult court jurisdiction is eliminated.

The offense category for attempt, conspiracy, bailjump, or solicitation related to Drive-by Shooting and Robbery in the first degree is reduced from A+ (180 weeks to age 21) to A (103-129 weeks).

The high end of the A+ juvenile sentencing range is expanded from age 21 to the maximum age of juvenile court jurisdiction.

The use of discretionary decline hearings is expanded to include circumstances where the respondent is under age 18 and: (1) is charged with custodial assault under RCW 9A.36.100; (2) has a criminal history which includes a prior conviction for custodial assault; and (3) is serving a minimum juvenile sentence to age 21 or longer.

Individuals serving confinement in a juvenile rehabilitation facility may perform community restitution (community service) while serving confinement.

Juvenile Offender Programming.

The "Community Juvenile Accountability Act Advisory Committee" is defined to mean the committee consisting of equal representatives from the DCYF and the courts with the purpose of

providing oversight and structure to the juvenile courts in an effort to provide a continuum of research-based programs consistent with state law.

The term "community-based rehabilitation" is expanded to include family and youth development programs.

The UW must convene an interdisciplinary work group to develop recommendations for updating policies that support the effective use of evidence-based services in juvenile justice, child welfare, children's mental health, and youth substance abuse and prevention services and provide a report to the Governor and the Legislature by November 1, 2020.

Juvenile Rehabilitation Institution Programming.

Rehabilitation services specially designed for individuals ages 18 through 25 with criminal justice experience are added to the inventory of evidence-based, research-based, and promising practices produced by the Washington State Institute for Public Policy and the University of Washington (UW) Evidence Based Practice Institute.

The DCYF must provide secure internet access to individuals serving a term of confinement and develop rules to determine who is eligible to use the secure internet and to ensure appropriate usage. The DCYF, in consultation with WaTech (the consolidated technology services agency), must develop and implement site testing providing individuals serving a term of confinement with the DCYF with access to digital learning through secure laptops from October 1, 2019, until July 1, 2021, and provide a report to the Legislature on December 1, 2020, regarding expansion.

The DCYF must provide mobile construction pre-apprenticeship training programs and post-secondary education opportunities to individuals serving a term of confinement with the DCYF that provide technical training with hands-on work experience and provide a report to the Legislature by December 1, 2020, regarding support and expansion of these programs.

The DCYF must convene a background check work group to explore barriers imposed by background check requirements in state law and in policy that prevent individuals with criminal history from providing mentoring to individuals serving a term of confinement with the DCYF and provide a report to the Legislature by December 1, 2019, that outlines recommendations regarding changes to state law or policy that could support mentoring programs for individuals serving a term of confinement with the DCYF.

The DCYF must establish and convene an employment pathways work group to outline a workforce framework for individuals served by juvenile rehabilitation and provide a report to the Legislature by December 1, 2019.

Appropriation: None.

Fiscal Note: Requested on February 15, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.