

# HOUSE BILL REPORT

## HB 2064

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**As Reported by House Committee On:**  
Human Services & Early Learning

**Title:** An act relating to juvenile justice.

**Brief Description:** Concerning juvenile justice.

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

**Brief History:**

**Committee Activity:**

Human Services & Early Learning: 2/19/19, 2/22/19 [DPS].

### Brief Summary of Substitute Bill

- Expands the high end of the A+ juvenile sentencing range from age 21 to the maximum age of juvenile court jurisdiction and modifies the instances in which a court may conduct a discretionary decline hearing to transfer a case from juvenile to adult court.
- 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, to 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 University of Washington to convene an interdisciplinary work group to develop recommendations for updating policies related to evidence-based child and juvenile services.

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## HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Kilduff, Klippert and Lovick.

**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 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.

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**Summary of Substitute 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 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 as the committee consisting of representatives from the DCYF and juvenile courts. The purpose of the committee is to provide oversight and structure to the juvenile courts in an effort to provide a continuum of evidence-based, research-based, and promising juvenile court programs consistent with state law. The committee selects a chair and vice-chair elected by the committee's membership.

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

*Juvenile Rehabilitation Institution Programming.*

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, to 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 a 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.

The University of Washington (UW) must convene an interdisciplinary work group to develop recommendations related to individuals ages 18 through 25 with criminal justice experience. This work group must include recommendations regarding whether to include rehabilitation services designed for individuals ages 18 through 25 with criminal justice experience in the descriptive definitions and inventory of evidence-based, research-based, and promising practices. The work group must provide a report to the Governor and the Legislature by November 1, 2020.

**Substitute Bill Compared to Original Bill:**

The substitute bill restores current law regarding the offense category for an attempted Robbery in the first degree or Drive-by Shooting committed at age 16 or 17.

The substitute bill removes language expressing the intent to refine requirements for juvenile justice program funding for juvenile courts to improve the performance monitoring and technical assistance provided to juvenile courts.

The substitute bill modifies the definition of Community Juvenile Accountability Act Advisory Committee to mean "the committee consisting of representatives from the DCYF and juvenile courts. The purpose of the committee is to provide oversight and structure to the juvenile courts in an effort to provide a continuum of evidence-based, research-based, and promising juvenile court programs consistent with state law. The committee selects a chair and vice-chair elected by the committee's membership."

The substitute bill removes the requirement that the Washington State Institute for Public Policy include rehabilitation services specially designed for individuals ages 18 through 25 with criminal justice experience in the inventory of evidence-based, research-based, and promising programs.

The substitute bill limits the work group convened by the UW to develop recommendations related to individuals ages 18 through 25 with criminal justice experience. This work group must include recommendations regarding whether to include rehabilitation services designed for individuals ages 18 through 25 with criminal justice experience in the descriptive definitions and inventory of evidence-based, research-based, and promising practices.

The substitute bill removes the following members from the workgroup convened by the UW: (1) the Community Juvenile Accountability Act Advisory Committee; and (2) the Washington Association of Juvenile Court Administrators.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 15, 2019.

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

**Staff Summary of Public Testimony:**

(In support) This bill is an omnibus implementation bill related to changes made by the Legislature in 2018 regarding exclusive adult court jurisdiction and juvenile offender sentencing. This bill includes technical changes related to the bill from 2018 and juvenile institutional programming changes. The auto-decline bill from 2018 missed a couple of issues. The changes to attempted Robbery in the first degree or Drive-by Shooting made in 2018 did not modify the offense category for attempted Robbery in the first degree or Drive-by Shooting, which is done in this bill. Washington has a national reputation for being an early adopter of evidence-based practices. Since the creation of evidence-based requirements

in 2006, many things have happened. The number of programs that can be identified as beneficial should be expanded to include programs that may not have the funding to be researched. Washington has an advantage over other jurisdictions on identifying programs that, according to the evidence, have a positive effect on youth. Lawmakers have an obligation to learn, adapt, and do better to identify beneficial programs for youth. This bill expands trauma-informed programs and programs that support education and employment opportunities. The bill strengthens and expands evidence-based programs. This bill helps kids have skills when they leave juvenile institutions so they can get a job. Existing preapprenticeship programs serve confined individuals. Individuals served by these programs are often employed and receive a high wage. The state is facing an employment shortage in the construction industry. This bill would allow expansion of current preapprenticeship programs from the DOC inmates to individuals serving a term of confinement with the juvenile rehabilitation institutions.

(Opposed) None.

(Other) Juvenile courts should be able to hold a discretionary decline related to custodial assault and not require a second custodial assault for that decline. A juvenile court should also be able to hold a discretionary decline hearing following the damage to institutional property and following the incitement of a riot in a juvenile institution.

**Persons Testifying:** (In support) Representative Frame, prime sponsor; Todd Dowell, Washington State Association of Prosecuting Attorneys; Sarah Walker, University of Washington School of Medicine; Hillary Behrman, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Kerstin Torrescano, Apprenticeship and Nontraditional Employment for Women.

(Other) Carl McCurley, Washington State Center for Court Research; and Matt Zuvich, Washington Federation of State Employees

**Persons Signed In To Testify But Not Testifying:** None.