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## Human Services & Early Learning Committee

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### SSB 5735

**Brief Description:** Concerning the appropriate age for juvenile court adjudication.

**Sponsors:** Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Nguyen, Hasegawa and Wilson, C.).

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| <p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Raises the age of capacity to commit a crime to age 12 and older for crimes that are not serious violent offenses.</li></ul> |
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**Hearing Date:** 3/19/19

**Staff:** Luke Wickham (786-7146).

**Background:**

*Age of Capacity to Commit a Crime.*

Children under age 8 are incapable of committing crime in Washington. Children from age 8 to under age 12 are presumed incapable of committing crime, but that presumption may be removed by proof that he or she has sufficient capacity to understand the act or neglect and to know that it was wrong.

Courts have held that the determination of capacity must be made in reference to the specific act charged, and this determination is fact-specific. In addition to the nature of the crime, other elements may be relevant in determining whether the child knew the act was wrong including:

- the child's age and maturity;
- whether the child exhibited a desire for secrecy;
- whether the child admonished the victim not to tell;
- prior conduct similar to that charged;
- any consequences that attached to that prior conduct; and

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*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.*

- acknowledgement that the behavior is wrong and could lead to detention.

### *Juvenile Court.*

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.

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 Department of Social and Health Services juvenile rehabilitation facility.

### *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.

**Summary of Bill:**

The age of capacity to commit a crime is raised to age 12 and older for crimes that are not serious violent offenses. For serious violent crimes, current law would remain in place where individuals age 8 to 12 would be presumed incapable of committing such crimes.

**Appropriation:** None.

**Fiscal Note:** Available.

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