

FINAL BILL REPORT

2SSB 5488

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Synopsis as Enacted

Brief Description: Modifying youth sentencing guidelines.

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

Senate Committee on Human Services, Reentry & Rehabilitation
House Committee on Public Safety

Background: Charging Persons in Adult Court for Crimes Allegedly Committed as Minors. A minor is a person under the age of eighteen. A minor must be charged in adult court if they are charged with an offense which, based on the age of the individual at the time it was allegedly committed, is in the exclusive original jurisdiction of adult court. A charge against a person who is sixteen or seventeen years of age at the time of commission must be filed in adult court if it is a serious violent offense or if it is a violent offense and the person has a criminal history including one or more serious violent offenses or the offense of rape of a child in the first degree, two or more violent offenses, or three or more class A or class B felonies. For charges within the exclusive original jurisdiction of juvenile court, a discretionary decline hearing may be held to transfer a charge to adult court when the person is charged with a serious violent offense allegedly committed when the person was fifteen years of age, or when the person is charged with murder in the first or second degree allegedly committed when the person was eight to fifteen years of age.

Sentencing in Adult Court. The Sentencing Reform Act of 1981 (SRA) established determinate sentencing in Washington State, which is a method in which courts use a sentencing grid, originally adopted in 1983, to determine a standard sentencing range for an individual within a narrow sentencing band. The standard range is determined by the seriousness level of the offense assigned by the Legislature and an offender score determined by the individual's criminal history and other current offenses. The standard range sentence may be increased by sentencing enhancements that must be pleaded and proven like elements of a criminal offense. A court must sentence an individual within their standard sentencing range, plus any proven sentencing enhancements, unless the court finds grounds to impose an exceptional sentence outside the standard range.

Sentencing Enhancements. The SRA contains a number of sentencing enhancements, including a firearm enhancement, deadly weapon enhancement, school bus zone enhancement, vehicular homicide impaired driving enhancement, sexual motivation

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enhancement, commercial sexual exploitation of a minor enhancement, involving minors in criminal street-gang related activity enhancement, endangering other persons while attempting to elude a police officer enhancement, assaulting a law enforcement officer with a firearm enhancement, committing a drug offense while in the custody of a jail or prison facility enhancement, and an enhancement for having a child passenger in a car during a vehicular homicide impaired driving offense. Most sentencing enhancements, with certain exceptions, are specified to be mandatory and must be served consecutively to the standard range sentence with applicable sentencing enhancements, and in total confinement without earned release time.

Exceptional Sentences. While a standard range sentence is presumed to be appropriate, the court may impose an exceptional sentence outside the standard range if it finds substantial and compelling reasons. An exceptional sentence is subject to appeal by the defendant or state. The court must enter written findings based on explicitly stated mitigating or aggravating circumstances. A statutory list of aggravating and mitigating circumstances is supplied in law. The list of mitigating circumstances, which must be found by a preponderance of evidence, is illustrative and not intended to be exclusive.

State Court Decision. In 2017, following a line of federal jurisprudence, the Washington State Supreme Court found in the case of *State v. Houston-Sconiers* is 188 Wn.2d 1, the eighth amendment requires sentencing courts to take into account a defendant's youthfulness further and requires the sentencing court to be vested with full discretion to depart below applicable SRA standard ranges and to modify otherwise mandatory sentencing enhancements when sentencing a juvenile in adult court.

Summary: When sentencing a person for a felony in adult court for a crime committed under age eighteen, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding the defendant's youth into account.

Votes on Final Passage:

2019 Regular Session

Senate 37 11

2020 Regular Session

Senate 31 17

House 64 32 (House amended)

Senate 31 18 (Senate concurred)

Effective: June 11, 2020