

HOUSE BILL REPORT

HB 1413

As Reported by House Committee On:
Public Safety

Title: An act relating to the scoring of prior juvenile offenses in sentencing range calculations.

Brief Description: Scoring of prior juvenile offenses in sentencing range calculations.

Sponsors: Representatives Hackney, Berg, Simmons, Davis, Fitzgibbon, Peterson, Ormsby, Harris-Talley and Pollet.

Brief History:

Committee Activity:

Public Safety: 2/9/21, 2/15/21 [DP].

Brief Summary of Bill

- Excludes juvenile dispositions from offender score calculations.
- Requires courts, until July 1, 2025, to grant a resentencing hearing upon the motion of a person whose sentence was increased by the inclusion of prior juvenile dispositions in the person's offender score calculation.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 8 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Davis, Hackney, Lovick, Orwall, Ramos and Simmons.

Minority Report: Do not pass. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Graham.

Minority Report: Without recommendation. Signed by 2 members: Representatives Griffey and Young.

Staff: Corey Patton (786-7388).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Sentencing Reform Act provides a determinate sentencing system in which sentencing courts generally impose sentences within a standard range. The standard range for a person is determined by reference to a grid, which provides a base sentence according to the person's offender score and the seriousness level of the present offense. The offender score is a point total based on the person's prior dispositions and convictions. Certain prior dispositions and convictions are excluded from offender score calculations if the person remains crime-free in the community for a specified period of time following release.

A person's juvenile disposition records are included in offender score calculations if the person is convicted of a subsequent adult felony. Prior juvenile dispositions are typically worth fewer points than equivalent adult convictions depending on the nature of the prior offense and the severity of the current offense. Most crimes committed by persons under 18 years of age are adjudicated in juvenile court, but certain cases are transferred to adult court. If a person under 18 years of age is convicted in adult court, the conviction is considered an adult conviction for subsequent offender score calculations.

Summary of Bill:

A person's prior juvenile dispositions, including out-of-state and federal adjudications, may not be included in the person's offender score calculations for any subsequent adult convictions.

Upon a person's motion for relief from sentence, a sentencing court must grant an expedited resentencing hearing if the person was sentenced for an offense committed prior to the effective date of the bill and the person's offender score calculation was increased by the inclusion of prior juvenile dispositions. At the hearing, the court must resentence the person as if any juvenile dispositions were not part of the person's offender score calculation at the time the original sentence was imposed. This requirement expires on July 1, 2025.

Appropriation: None.**Fiscal Note:** Available.**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) Points from prior juvenile dispositions are a significant contributor to racially

disproportionate sentencing and incarceration rates for adult felonies. The federal government and most other states do not include prior juvenile dispositions in adult offender score calculations. Washington's inclusion of prior juvenile dispositions stems from misguided, archaic fears from the "Tough on Crime" era of criminal justice. Policies from that era perpetuated racist stereotypes, such as the super-predator myth that youth of color were inherently violent and unable to be rehabilitated. The criminal justice system continues to exploit and profit from labor provided by incarcerated people of color.

Youth of color, especially those who are trans, queer, or economically impoverished, are overpoliced and more likely to face criminal charges. Prosecutors are incentivized to seek harsh penalties and sentences for crimes committed by youth of color, leading to youth of color accumulating more than twice the number of juvenile convictions compared to their white counterparts because they are afforded fewer resources and opportunities for deferral. As a result, youth of color are given longer sentences and are exposed to additional traumas while incarcerated.

This bill incorporates our latest understanding of adolescent brain science and acknowledges youth as a mitigating factor in criminal behavior. Instead of labeling youth of color as offenders, this bill will empower them to move forward with their lives and make positive changes that reduce their risk of recidivism. Individuals whose offender scores were increased by prior juvenile dispositions should receive retroactive resentencing opportunities to address past systematic injustices.

(Opposed) Washington generally assigns fewer points for offenses committed by juveniles compared to equivalent offenses committed by adults. All individuals deserve support and opportunities for rehabilitation, but serious crimes committed by juveniles should be reflected in offender score calculations, especially when those crimes demonstrate a pattern of criminal behavior. It may be appropriate to establish an age cutoff where points for offenses committed by juveniles would be phased out. The concerns of victim communities and law enforcement should not be ignored.

(Other) There are logistical concerns that need to be addressed regarding court backlogs. This bill will likely involve resentencing thousands of individuals. Resentencing hearings are not formulaic and require the involvement of Department of Corrections staff, prosecuting attorneys, defense attorneys, victim communities, court staff, and judges. Given the additional challenges posed by COVID-19, it will be impractical to offer expedited resentencing hearings without significantly delaying other matters.

Persons Testifying: (In support) Representative Hackney, prime sponsor; Katie Hurley, King County Department of Public Defense; Chelsea Moore, Look2Justice; Dominique Davis, Community Passageways; Stephan Thomas; Sean Goode, CHOOSE 180; Noreen Light, Washington Coalition for Prison Reform; Nikkita Oliver, Creative Justice; and Komalpreet Sahota.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs; and Russell Brown, Washington Association of Prosecuting Attorneys.

(Other) Judge Judith Ramseyer, Superior Court Judges' Association.

Persons Signed In To Testify But Not Testifying: Nicole Pierce; Heather Johnson; Virginia Parham; Emily Gause, Gause Law Offices PLLC, Washington Association of Criminal Defense Lawyers, and Washington Defender Association; Brianna Kehrer; Jarrelle Marshall; Anthony Powers; and Katie Farden, King County Department of Public Defense.