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**HOUSE BILL 2213**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Cheney, Taylor, Duerr, and Graham

AN ACT Relating to defects and omissions in the laws that have been identified by the justices of the supreme court or judges of the superior courts pursuant to Article IV, section 25 of the state Constitution; amending RCW 10.116.030, 13.04.030, 21.20.380, and 29A.80.061; reenacting and amending RCW 10.95.030; creating a new section; repealing RCW 9.68.060, 9.68.070, and 9.68.090; and repealing 2020 c 1 ss 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 (uncodified).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 10.95.030 and 2023 c 102 s 23 and 2023 c 102 s 20 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good‑time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's ((~~sixteenth~~)) 16th birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of ((~~twenty-five~~)) 25 years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least ((~~sixteen~~)) 16 years old but less than ((~~eighteen~~)) 21 years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than ((~~twenty-five~~)) 25 years.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than ((~~one hundred eighty~~)) 180 days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

**Sec.**  RCW 10.116.030 and 2021 c 320 s 4 are each amended to read as follows:

(1) A law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

(2) Prior to using tear gas as authorized under subsection (1) of this section, the officer or employee shall:

(a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;

(b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;

(c) Announce to the subject or subjects the intent to use tear gas; and

(d) Allow sufficient time and space for the subject or subjects to comply with the officer's or employee's directives.

(3) In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after: (a) Receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used, and (b) meeting the requirements of subsection (2) of this section.

(4) For the purposes of this section:

(a) "Barricaded subject" means an individual who is the focus of a law enforcement intervention effort, has taken a position in a physical location that does not allow immediate law enforcement access, and is refusing law enforcement orders to exit.

(b) "Highest elected official" means the county executive in those charter counties with an elective office of county executive, however designated, and in the case of other counties, the ((~~chair of the county legislative authority~~)) county sheriff. In the case of cities and towns, it means the mayor, regardless of whether the mayor is directly elected, selected by the council or legislative body pursuant to RCW 35.18.190 or 35A.13.030, or selected according to a process in an established city charter. In the case of actions by the Washington state patrol, it means the governor.

(c) "Hostage situation" means a scenario in which a person is being held against his or her will by an armed, potentially armed, or otherwise dangerous suspect.

(d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury, except "tear gas" does not include oleoresin capsicum (OC).

**Sec.**  RCW 13.04.030 and 2022 c 243 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile ((~~sixteen~~)) 16 years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is ((~~sixteen~~)) 16 or ((~~seventeen~~)) 17 years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's ((~~thirteenth~~)) 13th birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age ((~~twenty-five~~)) 25 if the juvenile has turned ((~~eighteen~~)) 18 years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d).

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained ((~~eighteen~~)) 18 years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family or probate court over minor guardianship proceedings under chapter 11.130 RCW and parenting plans or residential schedules under chapter 26.09, 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

(5) Nothing in subsection (1) of this section deprives the superior courts in this state of original jurisdiction granted by the Constitution or by other laws.

**Sec.**  RCW 21.20.380 and 2002 c 65 s 7 are each amended to read as follows:

(1) For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(2) If the activities constituting an alleged violation for which the information is sought would be a violation of this chapter had the activities occurred in this state, the director may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state.

(3) A subpoena issued to a financial institution under this section may, if the director finds it necessary or appropriate in the public interest or for the protection of investors, include a directive that the financial institution subpoenaed shall not disclose to third parties that are not affiliated with the financial institution, other than to the institution's legal counsel, the existence or content of the subpoena.

(4) In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, or the failure to comply with a nondisclosure directive under subsection (3) of this section, a court of competent jurisdiction of any county or the judge thereof, on application of the director, and after satisfactory evidence of willful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein.

(5) Nothing in this section authorizes the director or officers designated by the director to compel the production of customer banking records.

**Sec.**  RCW 29A.80.061 and 2004 c 271 s 150 are each amended to read as follows:

Within ((~~forty-five~~)) 45 days after the statewide general election in even-numbered years, the county chair of each major political party shall call separate meetings of all elected precinct committee officers in each legislative district for the purpose of ((~~electing~~)) selecting a legislative district chair in such district. The district chair shall hold office until the next legislative district reorganizational meeting two years later, or until a successor is ((~~elected~~)) selected.

The legislative district chair may be removed only by the majority vote of the elected precinct committee officers in the chair's district.

NEW SECTION. **Sec.**  The legislature finds that Article IX, section 1 of the state Constitution does not have a section caption in the original source, and that the subsequently added caption of "Preamble" does not accurately describe the section. Therefore, the secretary of state is respectfully requested to publish Article IX, section 1 of the state Constitution without a section caption.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 9.68.060 ("Erotic material"—Determination by court—Labeling—Penalties) and 2011 c 96 s 8, 2003 c 53 s 41, 1992 c 5 s 2, & 1969 ex.s. c 256 s 14;

(2) RCW 9.68.070 (Prosecution for violation of RCW 9.68.060—Defense) and 2011 c 336 s 318, 1992 c 5 s 4, & 1969 ex.s. c 256 s 15; and

(3) RCW 9.68.090 (Civil liability of wholesaler or wholesaler-distributor) and 2011 c 336 s 320, 1992 c 5 s 3, & 1969 ex.s. c 256 s 17.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) 2020 c 1 s 1 (uncodified);

(2) 2020 c 1 s 2 (uncodified);

(3) 2020 c 1 s 3 (uncodified);

(4) 2020 c 1 s 4 (uncodified);

(5) 2020 c 1 s 5 (uncodified);

(6) 2020 c 1 s 6 (uncodified);

(7) 2020 c 1 s 7 (uncodified);

(8) 2020 c 1 s 8 (uncodified);

(9) 2020 c 1 s 9 (uncodified);

(10) 2020 c 1 s 10 (uncodified);

(11) 2020 c 1 s 11 (uncodified);

(12) 2020 c 1 s 12 (uncodified);

(13) 2020 c 1 s 13 (uncodified);

(14) 2020 c 1 s 14 (uncodified);

(15) 2020 c 1 s 15 (uncodified);

(16) 2020 c 1 s 16 (uncodified); and

(17) 2020 c 1 s 17 (uncodified).

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