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**Human Services, Youth, & Early  
Learning Committee**

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**HB 1440**

**Brief Description:** Concerning the jurisdiction of juvenile court.

**Sponsors:** Representatives Thai, Taylor, Simmons, Reed and Pollet.

**Brief Summary of Bill**

- Increases the age that children are legally incapable of committing a crime from under age 8 to under age 14.
- Establishes that children ages 8 through 13 charged with Murder in the first or second degree are presumed incapable of committing crime, but that presumption may be rebutted by clear and convincing evidence that the child has sufficient capacity to understand the act or neglect and to know that it was wrong.
- Creates a Raise the Age Juvenile Justice Task Force that must consider and provide recommendations regarding expansion of juvenile jurisdiction to encompass persons ages 18 through 20 by July 1, 2027.

**Hearing Date:** 2/10/23

**Staff:** Omeara Harrington (786-7136).

**Background:**

*Age of Capacity to Commit a Crime.*

Children under age 8 are incapable of committing crime in Washington. Children from ages 8 through 11 are presumed incapable of committing crime, but that presumption may be removed by proof that the child has sufficient capacity to understand the act or neglect and to know that it

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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 attached to that prior conduct; and
- acknowledgement that the behavior is wrong and could lead to detention.

#### *Juvenile Court Jurisdiction.*

Juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under age 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires or allows youth to be tried in adult courts. There are three situations in which adult criminal courts may have jurisdiction over persons under age 18:

- The juvenile court may decline jurisdiction to adult court following a discretionary decline hearing initiated on the court's own motion, or on the motion of any party requesting a transfer to adult court, in circumstances in which:
  - the respondent is at least age 15 and is charged with a serious violent offense;
  - the respondent is age 14 or younger and is charged with Murder in the first or second degree; or
  - the respondent is any age and is charged with custodial assault and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age 21.
- The juvenile court is required to hold a decline hearing considering a transfer to adult court 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 Sentencing.*

Juvenile court dispositions are subject to statutory sentencing guidelines. A statutory grid establishes the standard sentencing range for a particular offense based on the seriousness level of the offense and an individual's prior adjudications. The sentencing category called local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions may include any of, or a combination of, the following: up to 30 days in confinement in a county

juvenile detention facility; up to 12 months of community supervision; up to 150 hours of community restitution; and up to a \$500 fine. Any confinement imposed that is greater than 30 days is served through commitment at a Department of Children, Youth, and Families juvenile rehabilitation facility.

Though a juvenile sentence may extend past a juvenile's eighteenth birthday, the juvenile court generally does not have authority to extend jurisdiction over any juvenile beyond his or her twenty-first birthday, so sentences entered in juvenile court typically do not extend past age 20. However, for juveniles age 16 or 17 who are adjudicated of Robbery in the first degree, Drive-By Shooting, or any Violent offense while armed with a firearm, jurisdiction remains until the juvenile turns age 25.

#### *Youth Courts.*

Youth court programs are designed to provide an alternative process for juveniles who commit diversion-eligible offenses, or civil or traffic infractions. The appropriate sanction is determined by a participating juvenile's peers, who serve in various capacities within the court under the supervision of the court or an adult coordinator. In the context of the Juvenile Justice Act, a youth court serves as a diversion unit under the supervision of the juvenile court, and may have authority over juveniles ages 8 through 17.

#### **Summary of Bill:**

The age of children who are incapable of committing a crime is increased from under age 8 to under age 14. Children ages 8 through 13 charged with Murder in the first or second degree are presumed incapable of committing crime, but that presumption may be rebutted by clear and convincing evidence that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. The authority for youth courts is limited to individuals ages 14 through 17, instead of ages 8 through 17.

A Raise the Age Juvenile Justice Task Force (Task Force) is created with the following members:

- two Senators (one from each of the two largest caucuses);
- two members of the House of Representatives (one from each of the two largest caucuses);
- an individual representing each of the following organizations:
  - the Juvenile Rehabilitation Administration;
  - the Department of Corrections;
  - the Washington Association of Sheriffs and Police Chiefs;
  - the Office of Public Defense;
  - the Washington Association of Prosecuting Attorneys;
  - the District and Municipal Court Judges' Association;
  - the Administrative Office of the Courts;
  - the Washington State Association of Counties;
  - the Association of Washington Cities;
  - the Washington State Council of County and City Employees;

- the Office of the Superintendent of Public Instruction; and
- the Minority and Justice Commission;
- two members representing each of the following organizations:
  - the Superior Court Judges Association, with one member from Eastern Washington and one member from Western Washington;
  - the Washington Association of Juvenile Court Administrators, with one member from Eastern Washington and one member from Western Washington;
  - the Washington State School Directors' Association, with one member representing a school district that provides education services to a juvenile rehabilitation residential facility; and
  - organizations with interests of incarcerated persons, with the two representatives each representing different programs and serving different constituencies; and
- three members representing organizations with interests of youth involved in the juvenile justice system, each representing a different region of the state or representing different programs.

The legislative membership is required to convene the first meeting of the Task Force no later than September 1, 2023, and additional Task Force meetings must be held at least once a month. The Task Force must choose its chair from among the legislative membership. Staff support for the Task Force must be provided by the Office of Juvenile Justice.

The Task Force must provide recommendations and an implementation plan to expand juvenile court jurisdiction to encompass persons ages 18 through 20 by July 1, 2027. The Task Force must report to the Governor and the Legislature on the implementation plan for the expansion, including recommended legislative action, necessary funding, essential personnel and programmatic resources, measures necessary to avoid a negative impact on the state's child protection response, and specific milestones related to operation and policy. A progress report is due by December 1, 2024, and a final report is due by December 1, 2025.

**Appropriation:** None.

**Fiscal Note:** Requested on February 2, 2023.

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