

HOUSE BILL REPORT

ESHB 2907

As Passed House:
February 28, 2018

Title: An act relating to confinement in juvenile rehabilitation facilities.

Brief Description: Concerning confinement in juvenile rehabilitation facilities.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Frame, Kagi and Doglio).

Brief History:

Committee Activity:

Early Learning & Human Services: 1/30/18, 2/2/18 [DPS];
Appropriations: 2/5/18, 2/6/18 [DPS(ELHS)].

Floor Activity:

Passed House: 2/28/18, 71-27.

Brief Summary of Engrossed Substitute Bill

- Allows individuals convicted of felony crimes in adult court for offenses that were committed while a juvenile to be placed in a juvenile correctional facility until the maximum age of commitment by a juvenile court.
- Extends the maximum age of juvenile court commitment for serious violent offenses to age 25.5.
- Requires a Washington Institute for Public Policy report on the impact of the changes made by the bill on community safety, racial disproportionality, and youth rehabilitation by December 1, 2023.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; Eslick, Frame, Goodman, Griffey, Lovick, Muri and Ortiz-Self.

Minority Report: Do not pass. Signed by 2 members: Representatives McCaslin, Assistant Ranking Minority Member; Klippert.

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.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Early Learning & Human Services be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Schmick, Senn, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Haler, Manweller, Taylor, Vick, Volz and Wilcox.

Staff: Kelci Karl-Robinson (786-7116).

Background:

Juvenile Rehabilitation Institutions.

The Department of Social and Health Services (DSHS) operates three juvenile institutions for juveniles convicted of crimes and sentenced to more than 30 days of confinement. Echo Glen Children's Center in Snoqualmie serves younger male offenders and female offenders. Green Hill School in Chehalis serves older male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program.

Juveniles convicted of felony crimes in adult court are placed in a Department of Corrections (DOC) facility to determine that child's earned release date. If that earned release date is before a youth's twenty-first birthday, the DOC shall transfer the youth to a juvenile institution operated by the DSHS. If a child's earned release date is on or after the individual's twenty-first birthday, the DOC shall, with the consent of the DSHS, transfer the individual to a DSHS facility until the individual turns 21, at which time the individual shall be transferred back to the DOC custody.

On July 1, 2019, the juvenile rehabilitation functions of the DSHS will transfer to the Department of Children, Youth, and Families (DCYF).

Adult Court Jurisdiction Over Juveniles.

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.
- The juvenile court is required to hold a decline hearing in circumstances when:

- the accused person is age 16 or 17 and is alleged to have committed a class A felony or attempt, solicitation, or conspiracy to commit a class A felony;
 - the juvenile is age 17 and is alleged to have committed Assault in the second degree, Extortion in the first degree, Indecent Liberties, Child Molestation in the second degree, Kidnapping in the second degree, or Robbery in the second degree; or
 - 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;
 - Robbery in the first degree, Rape of a Child in the first degree, or Drive-by Shooting;
 - Burglary in the first degree and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
 - any violent offense and the juvenile is alleged to have been armed with a firearm.

Once a juvenile is declined to adult jurisdiction, he or she will be subject to adult jurisdiction for all future alleged crimes unless the juvenile is found not guilty. If the juvenile is found not guilty of the charge for which he or she was transferred to adult court or is convicted of a lesser offense, the juvenile court will have jurisdiction of the remaining charges in the case.

If a juvenile is 16 or 17 years old, and he or she is charged with a traffic, fish, boating, or game offense, or an infraction, the case is referred to district or municipal court.

Juvenile Offender Sentencing.

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.

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 DSHS juvenile rehabilitation facility.

If the court concludes that disposition within the standard range would effectuate a manifest injustice, the court must impose a disposition outside the standard range. A court's finding of manifest injustice must be supported by clear and convincing evidence.

A juvenile offender cannot be committed by the juvenile court beyond the offender's twenty-first birthday.

Serious Violent Offense.

A serious violent offense is a category offense 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 Engrossed Substitute Bill:

Individuals under the age of 18, when charged with an offense, who are convicted of felony crimes in adult court and committed to a term of confinement shall be placed in a facility operated by the DSHS or if after July 1, 2019, to the DCYF (department). For purposes of this bill report, department means the DSHS and the DCYF (after July 1, 2019). The department is required to consult the DOC prior to releasing an individual who was convicted of a felony in adult court before age 18 to community custody. If the department determines that retaining the individual convicted of a felony in adult court before age 18 presents a significant safety risk to the individual or other individuals, the individual may be transferred to the custody of the DOC. Individuals convicted of felony crimes in adult court that were committed before age 18 may remain in a juvenile correctional facility until the maximum age of juvenile offender commitment by a juvenile court for the same offense.

Juvenile offenders adjudicated of a serious violent offense may be committed by the juvenile court to the department for placement in a juvenile correctional institution up to the time the juvenile offender is age 25.5.

The act applies to all individuals placed, or who will be placed, in juvenile rehabilitation facilities on or before the effective date of the bill following an adult court conviction. The act does not apply to individuals who were in the custody of the DSHS and were transferred to the DOC. In all other respects, the bill applies prospectively.

The Washington State Institute for Public Policy must assess the impact of this change on community safety, racial disproportionality, and youth rehabilitation and submit a report to the Governor and the Legislature by December 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 3, 5, and 7, relating to commitment in juvenile rehabilitation facilities following the transfer of juvenile justice functions from the DSHS to the DCYF, which take effect July 1, 2019.

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) This is a revision of a bill that was heard last year to allow individuals to be held in a juvenile correctional facility until age 25. This bill originated from a trip to Oregon, where juveniles convicted of adult crimes may remain in juvenile institutions up to age 25. Individuals should be kept in a rehabilitative setting up to age 25 because the opportunity for rehabilitation is much better in a juvenile institution than in an adult institution.

This is about age-appropriate treatment. Now individuals who are convicted in adult court for a juvenile offense are transferred to a DOC facility and cannot remain in a juvenile institution. This bill overcomes the need for sight and sound separation.

The Washington Association of Prosecuting Attorneys supports the expanded ability to serve young offenders in juvenile institutions.

This is a bill about community safety. There is evidence that individuals managed in a juvenile institution with active services are less likely to commit crimes. By undergoing this change, there will be a change to our community safety. The youthful offenders in Oregon provide stability, demonstrate less problems, and operate as positive mentors to younger offenders.

This proposal allows youthful offenders to remain in juvenile institutions up to age 25.5. Juvenile institutions are much more aware of the needs of youths than the DOC. Oregon is currently doing this with promising results.

(Opposed) None.

(Other) Juvenile institutions could serve this population better than the DOC. There is not a backlash against the policy. There is a need to make investments in juvenile institutions to make this work, and those institutions have received a cut in recent years. Juvenile institutions are not ready to make this adjustment. There are many incidents in the three institutions, and there is a high number of staff assaults. There are staffing problems in these institutions. In order to serve this population, one must have appropriate staffing for the new age range. This policy has a good chance to work but must be accompanied by investments in the programs. In order to make good changes, one must go slow to go fast.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): (In support) Representative Goodman, prime sponsor; Mary Lou Dickerson; Todd Dowell, Washington Association of Prosecuting Attorneys; Eric Trupin, University of Washington Department of Psychiatry and Behavioral Sciences; and Andrew Somers, Washington Association of Juvenile Court Administrators.

(Other) Matt Zuvich, Washington Federal of State Employees.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.