

# SENATE BILL REPORT

## ESHB 2907

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

**Committee Activity:** Ways & Means: 3/01/18.

### Brief Summary of Bill

- Allows individuals convicted of felony crimes in adult court for offenses that were committed while the individual was under 18 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 review of the placement of individuals over age 21 in juvenile correctional institutions after conviction in adult court at least once before the individual turns age 23 to determine whether the individual should be transferred to the custody of an adult correctional facility.
- Requires the Washington Institute for Public Policy to report on the impact of the changes made by the bill on community safety, racial disproportionality, and youth rehabilitation by December 1, 2023.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Travis Sugarman (786-7446)

**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

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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, DOC must transfer the youth to a juvenile institution operated by DSHS. If a child's earned release date is on or after the individual's twenty-first birthday, DOC must, with the consent of DSHS, transfer the individual to a DSHS facility until the individual turns 21, at which time the individual must be transferred back to DOC custody.

On July 1, 2019, the juvenile rehabilitation functions of 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:

1. 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.
2. The juvenile court is required to hold a decline hearing in circumstances when:
  - a. 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;
  - b. 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
  - c. the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
3. Adult criminal courts have exclusive original jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
  - a. a serious violent offense;
  - b. 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;
  - c. Robbery in the first degree, Rape of a Child in the first degree, or Drive-by Shooting;
  - d. Burglary in the first degree and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
  - e. any violent offense and the juvenile is alleged to have been armed with a firearm.

Once a juvenile is declined to adult jurisdiction, the juvenile 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 the juvenile 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 the juvenile 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 Bill:** An individual under the age of 18 who is convicted of a felony offense in adult court and sentenced to a term of confinement must be placed initially in a facility operated by DSHS, or if after July 1, 2019, to DCYF (Department). For purposes of this bill report, Department means DSHS and DCYF—after July 1, 2019.

The Department must consult DOC prior to releasing an individual who was convicted of a felony in adult court before age 18 to community custody, but DOC is not required to approve the individual's release plan. If the Department determines that retaining the individual in a juvenile correctional institution presents a significant safety risk to the individual or other individuals, the individual may be transferred to the custody of DOC.

Individuals convicted of felony crimes in adult court committed before age 18 may remain in a juvenile correctional facility until the individual is age 25.5, if convicted of a serious violent offense, or until the age 21 if convicted of other criminal offenses. The Department must review the placement of such an individual over age 21 to determine whether the individual should be transferred to the custody of DOC at a frequency to be determined by the Department, but the review must occur at least once before the individual turns age 23 if the individual's commitment extends beyond age 23.

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 for 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 DSHS and were transferred to DOC. In all other respects, the bill applies prospectively.

**Appropriation:** None

**Fiscal Note:** Available

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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