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**HOUSE BILL 2795**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Frame, Senn, Kilduff, Davis, Peterson, Lekanoff, Pollet, and Santos

AN ACT Relating to convictions for offenses that were committed at age sixteen or seventeen and placed in exclusive jurisdiction of the juvenile court in 2018; adding a new section to chapter 13.04 RCW; adding a new section to chapter 9.94A RCW; creating a new section; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  This act provides a mechanism for persons convicted in adult court for a crime committed at age sixteen or seventeen between July 1, 1997, and June 7, 2018, of a crime which was subject to autodecline at the time of conviction, but subsequently transferred to the exclusive jurisdiction of the juvenile court by chapter 162, Laws of 2018, to petition for the vacation of their conviction and disposition of the offense in juvenile court.

NEW SECTION. **Sec.**  A new section is added to chapter 13.04 RCW to read as follows:

(1) Any person convicted under exclusive original adult criminal jurisdiction between July 1, 1997, and June 7, 2018, for a crime committed at the age of sixteen or seventeen may petition the court of conviction to vacate the judgment and sentence and transfer the case for disposition in juvenile court if the conviction was for one of the following offenses:

(a) Robbery in the first degree;

(b) Drive-by shooting;

(c) Burglary in the first degree when the juvenile has a criminal history consisting of one or more prior felony, misdemeanor, or gross misdemeanor offenses; or

(d) Any violent offense as defined in RCW 9.94A.030 and the juvenile is alleged to have been armed with a firearm.

(2) Upon receiving the petition, the superior court shall vacate the judgment and sentence and transfer the case to juvenile court for disposition under this title only if the following are applicable:

(a) There are no pending appeals in the case to be vacated and transferred;

(b) The petitioner stipulates to the existence of facts necessary to support adjudication in juvenile court for any and all current convictions subject to this section. If the current convictions are based on a fact-finding in which the defendant maintained a plea of not guilty or relied on an *Alford* plea, the stipulation may be in the form of an *Alford* plea;

(c) The convictions must not currently be offenses subject to exclusive adult jurisdiction under RCW 13.04.030. If a cause number contains both offenses that are currently subject to exclusive adult jurisdiction and offenses that are no longer subject to exclusive adult jurisdiction, the charges may be severed to allow for resentencing of those offenses no longer subject to exclusive adult jurisdiction;

(d) The petitioner stipulates to an automatic extension of jurisdiction for purposes of imposing a disposition and supervision up to the age of twenty-five, regardless of the limitations set forth in RCW 13.40.300. In the event the petitioner is age twenty-five or older at the time of resentencing, the juvenile court shall maintain jurisdiction to impose a juvenile disposition order under this title, but jurisdiction to enforce terms of supervision, sanctions, and confinement shall end at the conclusion of the disposition hearing; and

(e) The petitioner stipulates he or she shall be subject to disposition in juvenile court and understands the juvenile court shall not be required to impose a standard range disposition, but may impose any disposition allowed pursuant to this title, provided that the juvenile court shall not impose any term of confinement, financial penalties, or restitution that exceeds the terms of the petitioner's previous judgment and sentence. Upon disposition in juvenile court, the petitioner must receive credit for any confinement served and financial restitution or penalties paid.

(3) Any petition under this section or RCW 13.40.030 received by mail or submitted in person to the superior court of the judicial district in which the petitioner was originally convicted must be reviewed by the superior court within thirty days of receipt of the written petition.

(4) The superior court shall not charge a filing fee for petitions submitted under this section. The superior court may consider testimony by the petitioner if deemed relevant. The petitioner must acknowledge in the initial written petition whether the petitioner will appear in person for the resentencing review hearing. The superior court must review, transfer, and dispose of the case as required, regardless of whether the petitioner is present, with copies of court orders sent to the petitioner at the petitioner's last known address or to an address specified in the petition.

(5) The department of corrections, in collaboration with the administrative office of the courts and the office of public defense, shall provide written notice by June 30, 2020, to all eligible persons of their right to petition the court for resentencing. The written notice must describe the process of filing the petition, describe the process by which the petition shall be reviewed, include information related to accessing legal assistance, and include the form required for making necessary stipulations. A list of eligible persons with current contact information must be shared with the office of public defense.

(6) A person who is appealing a conviction that would otherwise be eligible for vacation and transfer for disposition in juvenile court under this section may request dismissal of his or her appeal for the purpose of filing a petition under this section. In this circumstance only, a new appeal may be filed following juvenile court disposition within the time allowed by court rules containing only issues that were previously raised on appeal and are not mooted by the vacation of the judgment, sentence, and disposition in juvenile court. The record on appeal shall be the record of the person's original conviction, notwithstanding stipulations made by the petitioner, to enable disposition in juvenile court.

NEW SECTION. **Sec.**  A new section is added to chapter 9.94A RCW to read as follows:

Any person convicted under exclusive original adult criminal jurisdiction between July 1, 1997, and June 7, 2018, for a crime committed at the age of sixteen or seventeen, which was transferred to the exclusive jurisdiction of juvenile court by chapter 162, Laws of 2018, may petition the court of conviction to vacate the judgment and sentence under section 2 of this act.

NEW SECTION. **Sec.**  The sum of five hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, and the sum of five hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2022, from the general fund to the office of public defense solely for the purpose of providing funds to legal advocacy organizations for the legal assistance needed to assist petitioners with complying with this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect March 31, 2020.

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