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**SUBSTITUTE SENATE BILL 6443**

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

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Kuderer, Das, Darneille, Wilson, C., and Nguyen)

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; creating new sections; 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 an offense committed at age sixteen or seventeen between July 1, 1997, and June 7, 2018, that was subject to autodecline at the time of commission, but subsequently transferred to the exclusive jurisdiction of the juvenile court by chapter 162, Laws of 2018, to petition for the vacation of their judgment and sentence, and to transfer the offense to juvenile court for final disposition as a juvenile matter under Title 13 RCW.

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 an offense committed at the age of sixteen or seventeen may petition the court of conviction to vacate the judgment and sentence and transfer the offense for final disposition in juvenile court under the juvenile law at the time of vacation and as if the petitioner were still a juvenile 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 offense to juvenile court for final disposition under the juvenile law at the time of vacation and as if the petitioner were still a juvenile only if the following are applicable:

(a) For the purpose of these proceedings, the petitioner stipulates and agrees:

(i) To the existence of appropriate jurisdiction of the juvenile court to carry out the procedures under this section;

(ii) That matters appertaining to the vacation of judgment and sentence and final disposition in juvenile court are the only issues eligible to be raised by the petitioner or decided by the court in any proceeding under this section, and that the validity of the underlying convictions shall not be questioned, except that the juvenile court may address whether records of the offense transferred to juvenile court are eligible for sealing under RCW 13.50.260;

(iii) To an automatic extension of juvenile court 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; and

(iv) That the petitioner understands that 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; and

(b) The offense would currently be subject to exclusive adult jurisdiction under RCW 13.04.030 if the petitioner were still a juvenile.

(3) In the event the petitioner is age twenty-five or older at the time of resentencing, the adult superior court shall maintain jurisdiction to impose a juvenile disposition order under Title 13 RCW without the necessity for transfer to juvenile court. Jurisdiction to enforce terms of supervision, sanctions, and confinement shall end at the conclusion of the disposition hearing.

(4) If an offense is transferred to juvenile court for final disposition under this section, the court shall issue a temporary order continuing any no-contact orders or other affirmative conditions under the vacated judgment and sentence pending the disposition hearing in juvenile court. The court may establish conditions of release pending the juvenile court disposition hearing.

(5) Upon disposition in juvenile court, the petitioner must receive credit for any confinement served and financial restitution or penalties paid.

(6) 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.

(7) 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.

(8) It shall not be a bar to a petition for relief under this section if a conviction is under appeal. If successful, the petitioner may continue to maintain an appeal of any issues not mooted by the relief granted under this section.

(9) The prosecuting attorney shall make a reasonable effort to contact any victim in the case requested for transfer to juvenile court. In the event the victim is contacted, he or she shall be provided an explanation for the petition and transfer. The victim may participate in any resentencing, but is not required to do so.

(10) Any relief granted under this section shall have no effect on any unrelated conviction under a different cause number occurring after the date of the court's original judgment and sentence in the matter.

(11) Chapter 9.94A RCW is not applicable to any proceedings under this section. All final dispositions entered under this section are subject to Title 13 RCW, including RCW 13.04.450. A final disposition under this section is a juvenile matter for all purposes, including all rights, consequences, and remedies under Title 13 RCW, including for the purpose of sealing records under RCW 13.50.260.

NEW SECTION. **Sec.**  The department of corrections, in collaboration with the administrative office of the courts and the office of civil legal aid, 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 civil legal aid.

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.

**--- END ---**