

ESSB 5122 - H COMM AMD

By Committee on Children, Youth & Families

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the goal of
4 the juvenile justice system should be to protect public safety,
5 connect youth with age-appropriate services that reduce the risk of
6 recidivism, and provide meaningful rehabilitation so all youth can
7 have the opportunity for success in life. The legislature declares
8 that responses to problematic behaviors of youth should be guided by
9 evidence-based practices and that policy changes to the system should
10 be strongly rooted in eliminating racial inequities.

11 The legislature recognizes that a scientific consensus has
12 developed that demonstrates that youth continue to develop
13 neurologically until age 26. The legislature finds that youth ages
14 eight through 12 are less capable of making fully informed decisions
15 and youth ages 18 and 19 are particularly susceptible to outside
16 factors influencing their decision making.

17 The legislature recognizes that on January 18, 2021, the
18 Washington state board of health released a review regarding the
19 health impacts of raising the age of the juvenile court's
20 jurisdiction to likely decrease the juvenile criminal legal system's
21 involvement for some youth ages eight through 12 and to likely
22 decrease the adult criminal legal system's involvement for some
23 emerging adults ages 18 and 19. The board further found very strong
24 evidence that this would decrease juvenile recidivism and improve
25 health outcomes, access to employment opportunities, housing access,
26 and economic stability.

27 The legislature intends to amend jurisdiction of juvenile court
28 to include youth ages 13 through 19, with certain exceptions, and
29 consider expanding juvenile court jurisdiction to include individuals
30 over age 19. The legislature recognizes the important role that local
31 governments play in ensuring access to justice in the juvenile court
32 system. The legislature recognizes that amended jurisdiction in

1 juvenile court may increase expenses for juvenile court systems
2 despite significant offset savings in the adult system through
3 reduced adult caseloads. The legislature intends to partner with
4 local governments, courts, and other stakeholders to ensure
5 successful expansion of juvenile court jurisdiction. The legislature
6 therefore resolves to convene the raise the age juvenile justice task
7 force to examine and plan for implementation of expanded juvenile
8 court jurisdiction.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.216
10 RCW to read as follows:

11 (1) The raise the age juvenile justice task force is established,
12 with members as provided in this subsection.

13 (a) The president of the senate shall appoint one member from
14 each of the two largest caucuses of the senate.

15 (b) The speaker of the house of representatives shall appoint one
16 member from each of the two largest caucuses of the house of
17 representatives.

18 (c) The president of the senate and the speaker of the house of
19 representatives jointly shall appoint one member as follows unless
20 specified representing the:

21 (i) Juvenile rehabilitation administration;

22 (ii) Department of corrections;

23 (iii) Washington association of sheriffs and police chiefs;

24 (iv) Office of public defense;

25 (v) Washington association of prosecuting attorneys;

26 (vi) District and municipal court judges' association;

27 (vii) Administrative office of the courts;

28 (viii) Washington state association of counties, with one member
29 representing the Washington state association of counties generally
30 and one member representing the Washington state association of
31 counties having expertise in county facilities;

32 (ix) Association of Washington cities;

33 (x) Washington state council of county and city employees;

34 (xi) Office of the superintendent of public instruction;

35 (xii) Minority and justice commission;

36 (xiii) Superior court judges' association, one member
37 representing western Washington and one representing eastern
38 Washington;

1 (xiv) Washington association of juvenile court administrators,
2 one member representing western Washington and one representing
3 eastern Washington;

4 (xv) Washington state school directors' association, a member
5 representing a school district that provides education services to a
6 juvenile rehabilitation residential facility;

7 (xvi) Department of health;

8 (xvii) Statewide organization representing public defense
9 attorneys;

10 (xviii) Department of children, youth, and families;

11 (xix) Communities who have been impacted or served by the
12 juvenile justice system, with two members from these communities;

13 (xx) Medical community with expertise in adolescent brain
14 development;

15 (xxi) Organizations representing the interests of incarcerated
16 persons, with two representatives each representing different
17 programs and serving different constituencies; and

18 (xxii) Organizations representing the interests of youth involved
19 in the juvenile justice system, with three representatives from
20 different regions of the state or representing different programs.

21 (2) The legislative membership shall convene the initial meeting
22 of the task force no later than September 1, 2021. The task force
23 shall choose its chair from among its legislative membership.

24 (3) Staff support for the task force must be provided by the
25 office of juvenile justice.

26 (4) Taking into consideration research and case law regarding
27 adolescent brain development, the task force shall consider and
28 provide recommendations regarding:

29 (a) Implementation of juvenile jurisdiction expansion to
30 encompass persons 18 years old and 19 years old; and

31 (b) Expansion of juvenile court jurisdiction to include ages
32 above 19 years of age.

33 (5) On or before December 1, 2022, the task force shall report to
34 the governor and appropriate committees of the legislature on the
35 status and plan for the expansion, including necessary funding,
36 essential personnel and programmatic resources, measures necessary to
37 avoid a negative impact on the state's child protection response, and
38 specific milestones related to operations and policy, including:

39 (a) A timeline for structural and systemic changes within the
40 juvenile justice system for the juvenile rehabilitation division, the

1 department of children, youth, and families, the department of
2 corrections, and the juvenile court pursuant to chapter 13.04 RCW;

3 (b) An operations and business plan that defines benchmarks,
4 including possible changes to resource allocations;

5 (c) Review of the estimated costs avoided by local and state
6 governments with the reduction of recidivism and an analysis of cost
7 savings reinvestment options;

8 (d) Anticipated county and state facility changes and
9 modifications, including a timeline or planning needed to
10 successfully expand juvenile court jurisdiction;

11 (e) Estimated new costs incurred to provide juvenile justice
12 services to persons 18 years old and 19 years old; and

13 (f) A clearly defined path for geographic consistency given
14 varying local resources, staff, physical plant limitations, training,
15 services, and partnering needs.

16 (6) (a) Legislative members of the task force may be reimbursed
17 for travel expenses in accordance with RCW 44.04.120. Except as
18 provided in (b) of this subsection, nonlegislative members are not
19 entitled to be reimbursed for travel expenses if they are elected
20 officials or are participating on behalf of an employer, governmental
21 entity, or other organization. Any reimbursement for other
22 nonlegislative members is subject to chapter 43.03 RCW.

23 (b) Nonlegislative members of the task force who demonstrate
24 financial hardship must be reimbursed for travel expenses as provided
25 in RCW 43.03.050 and 43.03.060, as well as other expenses as needed
26 for each day a nonlegislative task force member attends a task force
27 meeting to provide consultative assistance.

28 (7) The expenses of the task force must be paid jointly by the
29 senate and the house of representatives. Task force expenditures are
30 subject to approval by the senate facilities and operations committee
31 and the house of representatives executive rules committee, or their
32 successor committees.

33 (8) The task force must hold at least one meeting a month. The
34 task force may form work groups and may consult experts in fields
35 that will inform and assist the work of the task force.

36 (9) This section expires January 1, 2023.

37 **Sec. 3.** RCW 9A.04.050 and 2011 c 336 s 347 are each amended to
38 read as follows:

1 Children under the age of (~~eight~~) 13 years are incapable of
2 committing crime. Children of eight (~~and under~~) through twelve
3 years of age who are charged with murder in the first or second
4 degree are presumed to be incapable of committing crime, but this
5 presumption may be (~~removed by proof~~) rebutted by clear and
6 convincing evidence that they have sufficient capacity to understand
7 the act or neglect, and to know that it was wrong. Whenever in legal
8 proceedings it becomes necessary to determine the age of a child, he
9 or she may be produced for inspection, to enable the court or jury to
10 determine the age thereby; and the court may also direct his or her
11 examination by one or more physicians, whose opinion shall be
12 competent evidence upon the question of his or her age.

13 **Sec. 4.** RCW 13.40.590 and 2002 c 237 s 10 are each amended to
14 read as follows:

15 (1) The administrative office of the courts shall encourage the
16 juvenile courts to work with cities and counties to implement,
17 expand, or use youth court programs for juveniles who commit
18 diversion-eligible offenses, civil, or traffic infractions. Program
19 operations of youth court programs may be funded by government and
20 private grants. Youth court programs are limited to those that:

21 (a) Are developed using the guidelines for creating and operating
22 youth court programs developed by nationally recognized experts in
23 youth court projects;

24 (b) Target offenders age (~~eight~~) 13 through (~~seventeen~~) 17;
25 and

26 (c) Emphasize the following principles:

27 (i) Youth must be held accountable for their problem behavior;

28 (ii) Youth must be educated about the impact their actions have
29 on themselves and others including their victims, their families, and
30 their community;

31 (iii) Youth must develop skills to resolve problems with their
32 peers more effectively; and

33 (iv) Youth should be provided a meaningful forum to practice and
34 enhance newly developed skills.

35 (2) Youth court programs under this section may be established by
36 private nonprofit organizations and schools, upon prior approval and
37 under the supervision of juvenile court.

1 **Sec. 5.** RCW 13.40.600 and 2002 c 237 s 11 are each amended to
2 read as follows:

3 (1) Youth courts have authority over juveniles ages (~~eight~~) 13
4 through (~~seventeen~~) 17 who:

5 (a) Along with their parent, guardian, or legal custodian,
6 voluntarily and in writing request youth court involvement;

7 (b) Admit they have committed the offense they are referred for;

8 (c) Along with their parent, guardian, or legal custodian, waive
9 any privilege against self-incrimination concerning the offense; and

10 (d) Along with their parent, guardian, or legal custodian, agree
11 to comply with the youth court disposition of the case.

12 (2) Youth courts shall not exercise authority over youth who are
13 under the continuing jurisdiction of the juvenile court for law
14 violations, including a youth with a matter pending before the
15 juvenile court but which has not yet been adjudicated.

16 (3) Youth courts may decline to accept a youth for youth court
17 disposition for any reason and may terminate a youth from youth court
18 participation at any time.

19 (4) A youth or his or her parent, guardian, or legal custodian
20 may withdraw from the youth court process at any time.

21 (5) Youth courts shall give any victims of a juvenile the
22 opportunity to be notified, present, and heard in any youth court
23 proceeding.

24 NEW SECTION. **Sec. 6.** If specific funding for the purposes of
25 this act, referencing this act by bill or chapter number, is not
26 provided by June 30, 2021, in the omnibus appropriations act, this
27 act is null and void."

28 Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Adds the following persons to the raise the age juvenile justice task force: (a) An individual representing the Washington State Association of Counties with expertise in county facilities; (b) an individual representing the Department of Health; (c) an individual representing the statewide organization representing public defense attorneys; (d) an individual representing the Department of Children, Youth, and Families; (e) two individuals representing communities who have been impacted or served by the juvenile justice system; and (f) an individual from the medical community with expertise in adolescent brain development.

(2) Requires the raise the age juvenile justice task force to take into consideration research and case law regarding adolescent

brain development and make recommendations regarding expansion of juvenile court jurisdiction to include ages above 19 years of age.

(3) Requires that the raise the age juvenile justice task force report include anticipated county and state facility changes and modifications, including a timeline or planning needed to successfully expand juvenile court jurisdiction.

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