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**ENGROSSED SUBSTITUTE SENATE BILL 5122**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

READ FIRST TIME 02/01/21.

1           AN ACT Relating to the jurisdiction of juvenile court; amending  
2 RCW 9A.04.050, 13.40.590, and 13.40.600; adding a new section to  
3 chapter 43.216 RCW; creating new sections; and providing an  
4 expiration date.

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

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

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

20           The legislature recognizes that on January 18, 2021, the  
21 Washington state board of health released a review regarding the

1 health impacts of raising the age of the juvenile court's  
2 jurisdiction to likely decrease the juvenile criminal legal system's  
3 involvement for some youth ages eight through 12 and to likely  
4 decrease the adult criminal legal system's involvement for some  
5 emerging adults ages 18 and 19. The board further found very strong  
6 evidence that this would decrease juvenile recidivism and improve  
7 health outcomes, access to employment opportunities, housing access,  
8 and economic stability.

9 The legislature intends to amend jurisdiction of juvenile court  
10 to include youth ages 13 through 19, with certain exceptions. The  
11 legislature recognizes the important role that local governments play  
12 in ensuring access to justice in the juvenile court system. The  
13 legislature recognizes that amended jurisdiction in juvenile court  
14 may increase expenses for juvenile court systems despite significant  
15 offset savings in the adult system through reduced adult caseloads.  
16 The legislature intends to partner with local governments, courts,  
17 and other stakeholders to ensure successful expansion of juvenile  
18 court jurisdiction. The legislature therefore resolves to convene the  
19 raise the age juvenile justice task force to examine and plan for  
20 implementation of expanded juvenile court jurisdiction.

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

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

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

27 (b) The speaker of the house of representatives shall appoint one  
28 member from each of the two largest caucuses of the house of  
29 representatives.

30 (c) The president of the senate and the speaker of the house of  
31 representatives jointly shall appoint one member as follows unless  
32 specified representing the:

33 (i) Juvenile rehabilitation administration;

34 (ii) Department of corrections;

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

36 (iv) Office of public defense;

37 (v) Washington association of prosecuting attorneys;

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

39 (vii) Administrative office of the courts;

- 1 (viii) Washington state association of counties;
- 2 (ix) Association of Washington cities;
- 3 (x) Washington state council of county and city employees;
- 4 (xi) Office of the superintendent of public instruction;
- 5 (xii) Minority and justice commission;
- 6 (xiii) Superior court judges' association, one member  
7 representing western Washington and one representing eastern  
8 Washington;
- 9 (xiv) Washington association of juvenile court administrators,  
10 one member representing western Washington and one representing  
11 eastern Washington;
- 12 (xv) Washington state school directors' association, a member  
13 representing a school district that provides education services to a  
14 juvenile rehabilitation residential facility;
- 15 (xvi) Organizations with interests in incarcerated persons, with  
16 two representatives each representing different programs and serving  
17 different constituencies; and
- 18 (xvii) Organizations with interests of youth involved in the  
19 juvenile justice system, with three representatives from different  
20 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) The task force shall consider and provide recommendations  
27 regarding implementation of juvenile jurisdiction expansion to  
28 encompass persons 18 years old and 19 years old.
- 29 (5) On or before December 1, 2022, the task force shall report to  
30 the governor and appropriate committees of the legislature on the  
31 status and plan for the expansion, including necessary funding,  
32 essential personnel and programmatic resources, measures necessary to  
33 avoid a negative impact on the state's child protection response, and  
34 specific milestones related to operations and policy, including:
- 35 (a) A timeline for structural and systemic changes within the  
36 juvenile justice system for the juvenile rehabilitation division, the  
37 department of children, youth, and families, the department of  
38 corrections, and the juvenile court pursuant to chapter 13.04 RCW;
- 39 (b) An operations and business plan that defines benchmarks,  
40 including possible changes to resource allocations;

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

4 (d) Estimated new costs incurred to provide juvenile justice  
5 services to persons 18 years old and 19 years old; and

6 (e) A clearly defined path for geographic consistency given  
7 varying local resources, staff, physical plant limitations, training,  
8 services, and partnering needs.

9 (6) (a) Legislative members of the task force may be reimbursed  
10 for travel expenses in accordance with RCW 44.04.120. Except as  
11 provided in (b) of this subsection, nonlegislative members are not  
12 entitled to be reimbursed for travel expenses if they are elected  
13 officials or are participating on behalf of an employer, governmental  
14 entity, or other organization. Any reimbursement for other  
15 nonlegislative members is subject to chapter 43.03 RCW.

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

21 (7) The expenses of the task force must be paid jointly by the  
22 senate and the house of representatives. Task force expenditures are  
23 subject to approval by the senate facilities and operations committee  
24 and the house of representatives executive rules committee, or their  
25 successor committees.

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

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

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

32 Children under the age of (~~eight~~) 13 years are incapable of  
33 committing crime. Children of eight (~~and under~~) through twelve  
34 years of age who are charged with murder in the first or second  
35 degree are presumed to be incapable of committing crime, but this  
36 presumption may be (~~removed by proof~~) rebutted by clear and  
37 convincing evidence that they have sufficient capacity to understand  
38 the act or neglect, and to know that it was wrong. Whenever in legal  
39 proceedings it becomes necessary to determine the age of a child, he

1 or she may be produced for inspection, to enable the court or jury to  
2 determine the age thereby; and the court may also direct his or her  
3 examination by one or more physicians, whose opinion shall be  
4 competent evidence upon the question of his or her age.

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

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

13 (a) Are developed using the guidelines for creating and operating  
14 youth court programs developed by nationally recognized experts in  
15 youth court projects;

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

18 (c) Emphasize the following principles:

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

20 (ii) Youth must be educated about the impact their actions have  
21 on themselves and others including their victims, their families, and  
22 their community;

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

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

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

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

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

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

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

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

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

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

7 (3) Youth courts may decline to accept a youth for youth court  
8 disposition for any reason and may terminate a youth from youth court  
9 participation at any time.

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

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

15 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
16 this act, referencing this act by bill or chapter number, is not  
17 provided by June 30, 2021, in the omnibus appropriations act, this  
18 act is null and void.

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