

SENATE BILL REPORT

EHB 1324

As Reported by Senate Committee On:
Law & Justice, March 28, 2023

Title: An act relating to the scoring of prior juvenile offenses in sentencing range calculations.

Brief Description: Concerning the scoring of prior juvenile offenses in sentencing range calculations.

Sponsors: Representatives Hackney, Senn, Simmons, Reed, Lekanoff, Doglio, Pollet and Macri.

Brief History: Passed House: 3/6/23, 51-45.

Committee Activity: Law & Justice: 3/27/23, 3/28/23 [DPA, DNP].

Brief Summary of Amended Bill

- Prohibits juvenile adjudications except for murder in the first or second degree or a class A felony sex offense from being included in a defendant's offender score for the purpose of adult felony sentencing.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Torres, Wagoner and Wilson, L..

Staff: Kevin Black (786-7747)

Background: Washington uses determinate sentencing for adult felony offenses under the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Sentencing Reform Act in which a standard range sentence is determined by calculating an offender score based on prior adult convictions or juvenile adjudications, and comparing that to a seriousness level for the offense which is assigned by statute. The standard range is determined using a grid. Certain prior convictions and adjudications are excluded from offender score calculations if the person remains crime-free in the community for a specified period of time following release. When calculating the offender score, prior juvenile dispositions may be worth fewer points than equivalent adult convictions depending on the nature of the prior offense and the severity of the current offense.

Juvenile court adjudicates criminal offenses committed by individuals under 18 years of age, unless the offense is transferred to adult court, in which case the subsequent conviction would be treated as an adult offense. Adult court has exclusive jurisdiction over a serious violent offense or the offense of rape of a child in the first degree committed by a minor who is 16 or 17 years old, or a violent offense if the minor has a criminal history including a serious violent offense, two or more violent offenses, or three or more specified felony offenses. A discretionary decline hearing to adult court may be scheduled for a 15-year-old who has committed a serious violent offense, or a younger person who has committed murder in the first or second degree.

Summary of Amended Bill: A juvenile court adjudication may not be included in a defendant's offender score for the purpose of adult felony sentencing except for adjudications for murder in the first or second degree or a class A felony sex offense.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Allows juvenile adjudications for murder in the first or second degree or a class A felony sex offense to be included in the offender score.
- Removes retroactivity provisions from the bill.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This important sentencing reform bill prevents convictions under the age 18 from being automatically counted in adult court, but still allows the judge to take them into consideration. The judge always sees the complete juvenile record. Brain science and lived experience tell us that children under 18 do not have the same self control and decision-making skills as adults. Juvenile proceedings do not have the same constitutional protections and do not include the

right to a jury. The cost of resentencing is reduced because of retroactivity being phased in starting in 2025, with others becoming eligible in 2026. Serious crimes like murder are automatically declined to adult court for older juveniles and will be counted as adult convictions. This fulfills the original rehabilitative intent of the Juvenile Justice Act. The past should be past. This fits evolving standards of decency and this body's track record of progressive reform. Indigenous persons are disproportionately incarcerated in Washington based on youthful mistakes, due in part to broken homes from historical injustices like the nation's boarding school policy and the scourge of drugs and alcohol in Native Country. Fetal alcohol system traumatizes Native individuals in the womb. This measure exemplifies how historical injustices can be healed. Juveniles should be treated differently. Scoring of juvenile adjudications undermines rehabilitation. Only a minority of states automatically increase adult sentences based on juvenile adjudications. Juvenile points contribute significantly to racially disproportionate sentencing and incarceration. Trauma in the juvenile system makes individuals more vulnerable in the adult system. With the most serious offenses removed to adult court we are left with incidents of impulse control that characterize youthfulness and require grace. Resentencing is worth it because the human cost exceeds the cost of hearings. Punishing people twice for crimes committed as children does not make us safer. Young black men are the most likely to be victimized by violence and the most likely to suffer incarceration. After decades of investment in punishment as a primary strategy, we should invest in strategies that truly heal communities.

CON: This body should stand up for victims of intimate partner violence and sexual violence and not create resentencing hearings. People shouldn't be resentenced for their bad behavior and criminal conduct. Resentencing would break promises prosecutors made to victims. This policy is not trauma informed. Juvenile scoring washes out if you don't commit crimes. The state should pay expenses for local jurisdictions if this policy moves forward.

Persons Testifying: PRO: Representative David Hackney, Prime Sponsor; Judge André Peñalver; Martina Kartman, Collective Justice; Adam Cornell, Former Prosecuting Attorney, Snohomish County; Gabe Galanda, Huy; Eugene Youngblood, Dream.Org; Dr. Chelsea Moore, ACLU-Washington.

CON: Russell Brown, Washington Association of Prosecuting Attorneys; Juliana Roe, Washington State Association of Counties; James McMahan, Washington Association of Sheriffs & Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.