

SENATE BILL REPORT

EHB 1324

As of March 27, 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.

Brief Summary of Bill

- Prohibits juvenile adjudications from being included in a defendant's offender score for the purpose of adult felony sentencing.
- Allows an incarcerated individual to petition for resentencing after January 1, 2025, or January 1, 2026, if the individual remains in custody and their offender score was increased due to any juvenile adjudications.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kevin Black (786-7747)

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

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.

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 Bill: A juvenile court adjudication may not be included in a defendant's offender score for the purpose of adult felony sentencing.

An incarcerated individual sentenced to an offense with a release date on or after January 1, 2025, whose offender score was increased due to any juvenile adjudications may request an expedited resentencing hearing starting January 1, 2025, and be resentenced as if the juvenile adjudications were not part of the offender score at the time the original sentence was imposed. However, unless the following conditions apply, the juvenile may not be resentenced until January 1, 2026: by January 1, 2025, the juvenile must have served over 15 years or at least 50 percent of their sentence, or the juvenile's release date, based on an offender score without the juvenile adjudication, is before January 1, 2028.

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: 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.