
Community Safety Committee

HB 1274

Brief Description: Concerning retroactively applying the requirement to exclude certain juvenile convictions from an offender score regardless of the date of the offense.

Sponsors: Representatives Stearns, Hackney, Doglio, Ramel, Reed, Ormsby, Parshley, Pollet, Macri, Simmons and Hill.

Brief Summary of Bill

- Entitles a person incarcerated in total confinement meeting specified criteria to be resentenced, subject to a rebuttable presumption, if the person's offender score was increased by juvenile adjudications that are no longer scored under state law at the time of filing a petition for resentencing.
- Allows specified individuals to be sentenced based on the laws for offender scoring of juvenile adjudications in effect at the time of sentencing.
- Directs the Office of Crime Victims Advocacy to undertake several actions relating to victim advocacy services.

Hearing Date: 1/28/25

Staff: Michelle Rusk (786-7153).

Background:

Sentencing.

The Sentencing Reform Act provides a determinate sentencing system in which sentencing courts generally impose sentences within a standard range. The standard range for a person is determined by reference to a grid, which provides a base sentence according to

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the person's offender score and the seriousness level of the present offense. The offender score is a point total based on a person's qualifying prior convictions. Certain prior convictions are excluded from offender score calculations if the person remains crime free in the community for a specified period of time following release.

Juvenile Dispositions.

In 2023 legislation was enacted providing that a person's prior juvenile dispositions may not be included in the person's offender score calculations for any subsequent adult convictions, except for adjudications of guilt for Murder in the first degree, Murder in the second degree, and class A felony sex offenses. Out-of-state or federal convictions that would have been presumptively adjudicated in juvenile court under Washington law may not be included in the offender score unless they are comparable to Murder in the first or second degree, or a class A felony sex offense.

Rights of Crime Victims, Survivors of Victims, and Witnesses.

The Washington Constitution grants crime victims basic and fundamental rights, and additional rights are enumerated in statute. A reasonable effort must be made to ensure that victims, survivors of victims, and witnesses of crimes have access to such rights in adult and juvenile criminal proceedings, and sexually violent predator or criminal insanity civil commitment proceedings.

Examples of statutory rights include the following:

- with respect to victims of violent and sex crimes, the right to have a crime victim advocate from a crime victim or witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim;
- with respect to victims and survivors of victims, the right to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified; and
- with respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing or disposition hearing upon request by a victim or survivor.

Summary of Bill:

Resentencing Procedures Established.

Eligibility and Petition for Resentencing.

Any person sentenced for an offense committed prior to July 23, 2023, whose offender score was increased by juvenile adjudications that are not scorable under offender score laws at the time a person files a petition as provided below, is entitled to a resentencing hearing upon the person's motions for relief if:

- the person is currently incarcerated in total confinement with a release date of July 1, 2026, or later;

- until July 1, 2027, the person has served at least 50 percent or 15 years of their sentence;
- after July 1, 2027, the person has served at least 25 percent or 10 years of their sentence;
- after July 1, 2028, the person has served at least 10 percent or 5 years of their sentence;
- after July 1, 2029, the person has served any portion of their sentence.

If a petitioner meets the foregoing criteria, the court must grant the petitioner's motion and immediately set an expedited date for resentencing. There is a rebuttable presumption that the petitioner is entitled to be resentenced by the court. The court may deny a petition only if: (1) the petitioner has a significant disciplinary record while incarcerated; (2) the petitioner has an insignificant record of rehabilitation while incarcerated; or (3) the court determines it is more likely than not that the person will commit new felony criminal law violations.

If a petition is denied, the court must state the basis for its decision on the record, which a petitioner may appeal. A petitioner, upon a showing of changed circumstances, may file a subsequent petition no sooner than three years after denial, unless the court authorizes otherwise.

Subject to the availability of amounts appropriated for this purpose, eligible incarcerated individuals unable to afford counsel are entitled to have counsel appointed for the petition and proceedings. This right does not extend to any appeal or second or subsequent petition.

Resentencing.

If the court grants a petitioner's motion, at a resentencing hearing, the petitioner must be resentenced as if any juvenile adjudications no longer scored under offender score laws in effect at the time the petition was filed were not part of the petitioner's offender score at the time the original sentence was imposed. A court may not schedule a resentencing hearing before January 1, 2026. The soonest allowable release date from total confinement for a petitioner may be no sooner than six months after the date of the petitioner's resentencing hearing.

Rights of Victims, Survivors of Victims, and Witnesses.

Prior to and during a resentencing hearing, victims, survivors of victims, and witnesses of the crime have the following rights:

- to be informed of the date, time, and place of the resentencing hearing by the prosecuting attorney;
- to present a statement during the resentencing hearing; and
- all other rights afforded to victims and survivors of crime under the Washington Constitution and Washington laws.

The court may consider the impact of the petitioner's release on victims and survivors of victims of the crime for which resentencing is occurring, with special consideration given to the impacts on victims of sex offenses or domestic violence offenses.

Sentencing.

Any person sentenced on or after July 26, 2025, for an offense committed prior to July 23, 2023,

and whose offender score would be increased due to juvenile adjudications that are not scorable under offender scoring laws at the time of sentencing, must have their offender score calculated based on the offender score laws in effect at the time of sentencing.

Office of Crime Victims Advocacy.

The Office of Crime Victims Advocacy (OCVA) must contract with prosecuting attorneys' offices to offer victim advocacy services including: (1) legal advocacy to understand the resentencing process and how to exercise the individual's rights; (2) safety planning; (3) options to participate in a restorative justice program with the perpetrator; and (4) case management needs that may arise. The OCVA must also contract with an entity with victim services expertise to provide training for victim advocates embedded in prosecuting attorneys' offices regarding safety planning and case management services.

Additionally, the OCVA must establish a flexible fund to support victims and survivors of victims impacted by resentencing. The fund must be used for purposes including relocation assistance due to changes in safety planning, traveling to court for resentencing hearings, and expenses for psychotherapy associated with the offense.

Appropriation: None.

Fiscal Note: Requested on January 22, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.