

HOUSE BILL REPORT

HB 1815

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to prison riot offenses.

Brief Description: Concerning prison riot offenses.

Sponsors: Representatives Peterson, Cortes and Goodman.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/12/25, 2/18/25 [DPS].

Brief Summary of Substitute Bill

- Excludes facilities operated by the Department of Children, Youth, and Families (DCYF) and county juvenile detention facilities from the definition of "correctional institution" for purposes of the Prison Riot offense and applies that change retroactively.
- Creates a process for individuals who were adjudicated or convicted of Prison Riot offenses while in a DCYF institution or county juvenile detention facility to vacate those convictions or adjudications and seek resentencing if that offense formed the basis for the person's sentence or disposition.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Bergquist, Chair; Cortes, Vice Chair; Eslick, Ranking Minority Member; Burnett, Assistant Ranking Minority Member; Bernbaum, Goodman, Hill, Ortiz-Self, Penner and Taylor.

Minority Report: Without recommendation. Signed by 1 member: Representative Dent.

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.

Staff: Luke Wickham (786-7146).

Background:

Prison Riot Offense.

Whenever two or more inmates of a correctional institution assemble for any purpose and act in such a manner as to disturb the good order of the institution and contrary to the commands of the officers of the institution by the use or force of violence, or the threat thereof, and whether acting in concert or not, they may be found guilty of the criminal offense called Prison Riot.

Prison Riot is a class B felony punished by imprisonment in a state correctional institution for not less than one year nor more than 10 years, which is added to the sentence being served.

The term "correctional institution" is defined as any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, juvenile detention centers, and other facilities operated by the Department of Corrections, the Department of Children, Youth, and Families, or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction or adjudication of a criminal offense.

Summary of Substitute Bill:

The term "correctional institution" is limited, for purposes of the Prison Riot offense, to apply to places designated by law primarily for keeping a person age 18 or older in custody and specifically excludes facilities operated by the Department of Children, Youth, and Families (DCYF) and county juvenile detention facilities.

Any person who was convicted of a Prison Riot offense who was incarcerated in a facility operated by the DCYF or a county juvenile detention facility at the time of the offense may apply to the sentencing court for vacation of the applicant's record of adjudication or conviction of the offense. If the applicant qualifies for vacation, the court must grant the request.

Prosecutors are required to make a motion for relief from sentence for cases in which an offender has been sentenced or adjudicated for an offense where an adjudication or conviction for Prison Riot that occurred in a DCYF facility or a county juvenile detention facility was used as the basis for the offender's sentence or disposition. The court that imposed the sentence or disposition must grant the motion if it finds that the current or past adjudication or conviction for a Prison Riot offense that occurred in a facility operated by the DCYF or juvenile detention facility was used as a basis for the person's disposition or sentence and set an expedited date for resentencing.

Substitute Bill Compared to Original Bill:

The substitute bill:

- specifies that the definition of "correctional institution," for purposes of the Prison Riot offense only, applies to places designated by law primarily for the keeping of a person age 18 or older held in custody;
- excludes county juvenile detention facilities, in addition to juvenile prisons that are excluded in the underlying bill, from the definition of "correctional institution" for purposes of the Prison Riot offense; and
- includes individuals who were adjudicated or convicted of a Prison Riot offense while in a county juvenile detention facility in the process, developed in the underlying bill, to vacate that adjudication or conviction and seek resentencing.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) The effect of including people in juvenile prisons in the Prison Riot offense had a dramatic impact. This change is having a disproportionate impact on people of color.

There are issues at Green Hill. Charging these young men with Prison Riot and adding on to their sentences for what would otherwise be dealt with in a different manner has created an adversarial environment.

Young people make major changes while in juvenile rehabilitation institutions. Sometimes what would otherwise be handled as an infraction for these young people has resulted in Prison Riot offenses that add years to their sentences and end their progress.

Unintended consequences from prior legislation should not have this negative impact on young people.

Washington's Prison Riot statute is an outlier. Unlike the majority of states, Washington's law requires disobedience of less than three people. Our statute has no knowledge or intent requirement unlike the majority of states. Because our state's statute is an outlier, prosecutors have greater discretion in charging this offense.

This bill corrects an unintentional expansion of the Prison Riot offense to include juvenile facilities that was included in a bill related to medical and reentry services. The purpose of

that bill was unforeseen and unintended. Hispanic youth are disproportionately impacted by this.

Lewis County has charged over 400 percent more often than King County on this offense.

Some people at Green Hill struggle with gang involvement. Some of these people are charged with Prison Riot for defending themselves in an institution that is understaffed. Individuals who are released from Green Hill are still dealing with pending Prison Riot charges which may result in those individuals serving additional time in adult prison.

There are individuals who are charged with Prison Riot at Green Hill who would otherwise have received an infraction in adult prison. The mandatory sentence involved with the Prison Riot offense is equivalent to assault of a police officer.

Individuals have been charged with Prison Riot for two people attacking another person.

Black and brown young people have been incarcerated at higher rates and the system is being subjected to a legal system in Lewis County where 81 percent of the community members are white.

People who are eligible for the Indeterminate Sentencing Review Board are not eligible for review if there is an additional charge like Prison Riot.

This bill addresses a problem in our Prison Riot statute. The Prison Riot statute was enacted in 1954 following a riot where prisoners burned down a facility in Everett and four prisoners were shot and killed. The charges brought in Lewis County don't even come close to meeting the legislative intent of this statute.

The last two years have been a nightmare at Green Hill. This nightmare has been made worse by the deliberate pursuit of Prison Riot charges. The fights at Green Hill have mostly been the result of institutional failures. There are young people who are sent to Green Hill for three months and leave having spent three years. While these charges are pending, young people cannot release to community facilities.

It looks like we are dealing with about 75 people that would be eligible for retroactive application of this law. Many youth are charged in juvenile court for Prison Riot in Lewis County. It looks like about 59 young people were charged with this offense in Lewis County. There are instances where staff stood at the door and people flood into a room and get into a fight where Prison Riot is charged resulting in additional sentences of over four years.

There hasn't been an infraction system in place at Green Hill that is the appropriate mechanism for dealing with this behavior. This charge is often not filed in other counties. There are other felony charges like Custodial Assault and Assault in the third degree that

can be used in these situations.

Having these Prison Riot charges leads people to give up hope. There are youth who have transferred to DOC because they lost hope. Many of these youth have a juvenile sentence that brings them to Green Hill, but leave with an adult sentence based on a Prison Riot charge.

A lot of things need to change at Green Hill, like further investments in education and services. These people are coming back into our communities. These individuals need mental health support. Centering restorative justice practices should be prioritized instead of criminalizing this behavior.

Young people have no idea what they face when they enter adult prison. The first question that someone faces when they enter adult prison is who they ride with.

Over 80 percent of the people charged with this offense are people of color.

(Opposed) Green Hill has struggled with riots. A Google search will show videos of these riots. These riots have been disturbing to say the least.

It is likely that there have been many more riots at Green Hill that haven't been referred to law enforcement. Law enforcement is receiving about two reports a month of Prison Riots and most, if not all, of those who are charged with that offense are 18 years of age or older.

Many of these instances have involved 20 or more people and prosecutors are not charging individuals with this offense when there are only two people involved.

If there are just two people involved, that is charged as Assault and not Prison Riot.

The change in the law to extend Prison Riot to include juvenile institutions was passed unanimously in the Senate and by 74 House members.

This bill goes in the wrong direction. Improvement needs to occur at Green Hill, but this bill is not the solution.

(Other) There are problems with this statute, including the fact that Prison Riot is a class B felony and requires from 1 to 10 years of additional time. It is unusual for this offense to be charged when there are only two people involved. These events typically start with just two people getting in a fight, but end with a much larger group of people fighting.

Since the charging of Prison Riots at Green Hill there has been a change in behavior. This bill does not address the problems with the statute.

People who are attacked, act as peacemakers, or who take the brunt of a fight are not

charged with this offense.

There has been a large increase in assaultive behavior at Green Hill since 2021. Before the change in the law to add juvenile institutions to the Prison Riot offense, this behavior would have resulted in an assault charge which would have resulted in a shorter sentence.

Green Hill is beginning to implement a new system of referrals to try and handle some of these issues internally instead of referring these cases for prosecution. Another change at Green Hill that has changed behavior at Green Hill is the presence of Department of Corrections staff as the facility has been understaffed, and another change that has had an impact on this issue is the instituting of uniforms.

The number of Prison Riots have gone down since the charging of these offenses.

With a better infraction system and prosecution of the right people at the right time, this issue could improve.

On occasion individuals have indicated a preference to be transferred to Department of Corrections facilities.

When discussing the significant increase in the number of Prison Riot charges and convictions that have occurred in the past year, the Sentencing Guidelines Commission (SGC) uncovered that the definition of correctional institution was modified in 2021 to include juvenile detention centers and facilities operated by the DCYF. That bill was related to continuation of medical services and post-confinement release. It appears that the change to the definition of Prison Riot and subsequent broadening of the applicability of the offense was unintended. Had that bill not passed, we likely would not be here talking about this today.

The change the bill makes to remove Prison Riot from being applied to youth at DCYF facilities is akin to the recommendations of the SGC. The SGC has also requested a racial and ethnic impact statement from the Public Safety Policy and Research Center, which should be available soon.

Persons Testifying: (In support) Representative Strom Peterson, prime sponsor; Dr. Esther Matthews; Jessica Levin, Center for Civil Rights and Critical Justice; Jeremiah Bourgeois; Ramona Brandes, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Grete Schultz, TeamChild; Arthur Longworth, TeamChild; Elisa Cozad, TeamChild; Amanda Vasquez; Ruth Rivas; Liz Mustin, WA State Office of Public Defense; and Alexandra Narvaez, Legal Counsel for Youth and Children.

(Opposed) James McMahan, WA Assoc Sheriffs and Police Chiefs.

(Other) Jonathan Meyer, Lewis County Prosecutor; and Keri-Anne Jetzer, WA State Sentencing Guidelines Commission.

Persons Signed In To Testify But Not Testifying: None.