

# SENATE BILL REPORT

## E2SHB 2065

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As of February 16, 2024

**Title:** An act relating to recalculating sentencing ranges for currently incarcerated individuals whose offender score was increased by juvenile convictions no longer scorable under current law and allowing them to apply for resentencing without scoring those juvenile convictions.

**Brief Description:** Recalculating sentencing ranges for currently incarcerated individuals whose offender score was increased by juvenile convictions.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Stearns, Hackney, Ramel, Simmons, Reed, Ormsby, Street, Gregerson, Doglio, Lekanoff, Fosse, Santos, Reeves and Pollet).

**Brief History:** Passed House: 2/12/24, 56-41.

**Committee Activity:** Law & Justice: 2/19/24.

### Brief Summary of Bill

- Allows a person who was sentenced for an offense committed before July 23, 2023, whose offender score was increased due to juvenile adjudications which are not scorable under current law to petition for a resentencing hearing if the person is currently incarcerated in total confinement and other restrictions apply.
- Provides appointed counsel to petitioners who cannot afford legal counsel.
- Requires the Office of Crime Victims Advocates to provide victim advocacy and other services for victims and survivors impacted by this act.

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### SENATE COMMITTEE ON LAW & JUSTICE

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*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:** Kevin Black (786-7747)

**Background:** Sentencing. The Sentencing Reform Act provides a determinate sentencing system under 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 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 Points. In 2023 the state passed EHB 1324 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. This bill was applied prospectively to criminal acts arising after July 23, 2023.

**Summary of Bill:** A person sentenced for an offense committed before July 23, 2023, whose offender score was increased due to juvenile adjudications which are not scorable under current law may petition for a resentencing hearing if the person is currently incarcerated in total confinement and has a release date of January 1, 2025 or after. Until January 1, 2027, this law only applies to a person who:

- has a release date on the sentence within three years;
- would be eligible for release within three years if resentenced to a standard range sentence which is not enhanced by currently unscorable juvenile adjudications;
- has served over 15 years of their sentence; or
- has served at least 50 percent of their sentence.

The court must immediately set an expedited date for resentencing; however, no resentencing hearing may be scheduled before January 1, 2025. There is a rebuttable presumption that the court must resentence a petitioner who meets the foregoing conditions; however, the court may deny the resentencing motion by written decision if:

- the petitioner has a significant disciplinary record while incarcerated, which may be overcome by a substantial period free from significant infractions preceding the petition;
- the petitioner has an insignificant record of rehabilitation while incarcerated;
- the petitioner has engaged in pervasive and persistent antisocial behavioral while incarcerated;
- the court determines by a preponderance of the evidence that the person will commit new criminal law violations if resentenced; or
- the court determines there would be an extraordinary adverse impact of the petitioner's release on the victim or survivors of the victim of the crime for which the

petitioner is presently incarcerated, with special consideration given to sex offenses and domestic violence offenses committed against an intimate partner.

Appointed counsel is available to file a petition for individuals who are unable to afford counsel. An individual who is resentenced may not be released from confinement until six months after the resentencing hearing. An individual whose resentencing petition is denied may petition again after three years, or sooner with permission from the court. An individual may appeal denial of resentencing. The individual reentry plan which the Department of Corrections must prepare within 95 days of their original sentencing for all incarcerated individuals who are not subject to a life sentence or an order of deportation must be prepared for an individual who is resentenced under this act within six months of their expected release date.

The Office of Crime Victims Advocacy (OCVA) must contract with prosecuting attorneys offices to offer victim advocacy services for victims impacted by this act, including legal advocacy, safety planning, options to participate in restorative justice, and case management. OCVA must establish a flexible fund to support victims and survivors impacted by this act and defray expenses related to relocation, travel, or the out-of-pocket costs of psychotherapy. OCVA must provide training for victim advocates.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 22, 2024.

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

**Effective Date:** The bill takes effect on July 1, 2024.