

# SENATE BILL REPORT

## SB 5122

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As Reported by Senate Committee On:  
Human Services, Reentry & Rehabilitation, January 29, 2021

**Title:** An act relating to the jurisdiction of juvenile court.

**Brief Description:** Concerning the jurisdiction of juvenile court.

**Sponsors:** Senators Darneille, Das, Hasegawa, Kuderer, Nguyen, Pedersen, Robinson, Saldaña and Wilson, C..

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 1/19/21, 1/29/21 [DPS-WM, w/oRec].

**Brief Summary of First Substitute Bill**

- Increases the juvenile court jurisdiction's maximum age limit to 19 and increases the maximum age of presumed incapacity to commit a crime to 13.
- Requires jurisdiction over charges filed in juvenile court to remain in juvenile court without requiring an order of extension.
- Allows juveniles adjudicated for an offense committed at age 18 to serve in a juvenile institution through age 22 and juveniles adjudicated for an offense committed at age 19 to serve in a juvenile institution through age 21.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** That Substitute Senate Bill No. 5122 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Saldaña and Wilson, C.

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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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senators Gildon, Ranking Member; Dozier.

**Staff:** Julie Tran (786-7283)

**Background:** Juvenile Rehabilitation Institutions. On July 1, 2019, the Juvenile Rehabilitation division (JR) transferred from the Department of Social and Health Services to the Department of Children, Youth and Families. JR operates three juvenile institutions for juveniles, who are convicted of crimes and serving more than 30 days of confinement.

The Echo Glen Children's Center in Snoqualmie serves younger males as well as female offenders. The Green Hill School in Chehalis serves older male offenders. The Naselle Youth Camp serves male offenders and provides services such as the forestry work program.

Capacity to Commit a Crime. Under Washington State law, children under the age of 8 are legally incapable of committing a crime and may not be prosecuted in either juvenile or adult court. Children aged 8 through 11 are presumed incapable of committing a crime and children 12 years of age and older are presumed to have capacity to commit a crime. The current maximum age of juvenile court jurisdiction for the commission of an offense is 17.

Maximum Term of Confinement in Juvenile Rehabilitation. A person adjudicated in juvenile court may be sentenced to JR for a maximum term up to their 21st birthday. The exception exists if the juvenile is 16 or 17 years of age and adjudicated for one of the following offenses, which carries a maximum confinement term until the age of 25:

- drive-by shooting;
- robbery 1;
- burglary 1, if the juvenile has a prior criminal history; or
- any violent offense when the juvenile is alleged to have been armed with a firearm.

**Summary of Bill (First Substitute):** Age Limit. Children under the age of 13 years are presumed incapable of committing a crime, with the exception for charges of murder 1 or 2. The maximum age limit for juvenile court jurisdiction will increase in two phases:

- effective July 1, 2023, the maximum age of juvenile court jurisdiction is age 18; and
- effective January 1, 2025, the maximum age of juvenile court jurisdiction is age 19.

Implementation and Stakeholder Planning. The Office of Juvenile Justice (OJJ) must convene a stakeholder group and submit an initial report to the Legislature on or before December 1, 2022, that:

- identifies timeline for changes in juvenile justice;
- creates an operations and business plan defining benchmarks and possible source allocations;
- conducts a cost-savings analysis of estimated costs avoided and savings reinvestment options; and

- establishes a defined path for geographic consistency, court alternatives, and training needs

Counties may implement the jurisdictional increases sooner if they are able to provide adequate safety, rehabilitative programming, and efficient court processing. OJJ must submit annual progress reports by December 1st of each year until 2026.

Washington State Institute for Public Policy must assess the impacts of this act and submit an initial report to the Legislature by December 1, 2028.

Maximum Term of Confinement in Juvenile Rehabilitation. Once filed, proceedings against the juvenile will remain under the juvenile court's jurisdiction without requiring an order of extension unless the court declines jurisdiction pursuant to a decline hearing. Juveniles adjudicated for an offense committed at age 18 may be placed in a juvenile facility through the age of 22 and juveniles adjudicated for an offense committed at age 19 may be placed in a juvenile facility through the age of 23.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):**

- Amends the juvenile court jurisdiction expansion date for 18 years old to July 1, 2023, and 19 years old to January 1, 2025
- Adds an intent section and a null void clause
- Requires a Washington State Institute for Public Policy study to evaluate the impact of the bill with an initial report due December 1, 2028
- Changes expiration date for Office of Juvenile Justice's report on the counties' readiness and progress on the transition to June 30, 2026
- Requires OJJ to convene an implementation stakeholder group with an initial report due to the Legislature on December 1, 2022

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 31, 2021.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Youth are to be developed and not a problem to solve. The brains of young people are still forming. We are compounding the injustices and magnifying the racial inequities that exist throughout our legal systems. There are successful models for 18-24 rehabilitation programs that do not rely on criminalizing behavior as the only way to get services. Our current system flies in the face

of adolescent brain development and shared commitment to protect our most vulnerable. We can do better as a community and a state.

CON: Expanding juvenile jurisdiction to include those aged 18 and 19 is problematic. Age 18 is a logical start when an individual becomes an adult. This policy could be addressed with the statewide criminal sentencing task force. This bill will dramatically increase the risk to the marginalized youth and exacerbate the risk to these individuals as they would be preyed upon by adults. Juvenile system needs a serious system and making juveniles less accountable is not the answer.

OTHER: This bill allows the juvenile legal system to serve the right youth, exclude those who would be harmed, and include those who would benefit the most from a rehabilitative system. It aligns the way we treat children with research on recidivism and child development. It is also good for public safety. The health impact review shows strong evidence that this bill would decrease legal criminal involvement, improve health outcomes, and reduce recidivism. Emerging adults have better health outcomes when they are housed in juvenile rehabilitation facilities compared to adult correction facilities.

This bill moving 19 year olds to juvenile court jurisdiction is a major policy change that requires comprehensive planning and preparation. There are fiscal impacts and staffing concerns as the county juvenile courts will have an influx of cases. Moving adults to juvenile courts is not just happening on paper, it will cost more as juvenile rehabilitative services are more expensive and require more labor.

**Persons Testifying:** PRO: Senator Jeannie Darneille, Prime Sponsor; Sean Goode, CHOOSE 180; Katherine Hurley, King County Department of Public Defense.

CON: Matt Murray, Washington Association of Sheriffs and Police Chiefs; Russell Brown, Washington Association of Prosecuting Attorneys; Ken Roske, Pasco Police Chief; Patricia Byers, City of Yakima.

OTHER: Kimberly Ambrose, University of Washington School of Law; Judith Ramseyer, Superior Court Judges' Association; Jack Murphy, Washington Association of Juvenile Court Administrators; Cait Lang-Perez, Washington State Board of Health; Juliana Roe, Washington State Association of Counties; Lael Chester, Emerging Adult Justice Project, Columbia University Justice Lab.

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