
Children, Youth & Families Committee

ESSB 5122

Brief Description: Concerning the jurisdiction of juvenile court.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Das, Hasegawa, Kuderer, Nguyen, Pedersen, Robinson, Saldaña and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Increases the age range that children are presumed incapable of committing a crime, from under age 8 to under age 13.
- Establishes that children age 8 through 12 charged with Murder in the first or second degree are presumed incapable of committing crime, but that presumption may be rebutted by clear and convincing evidence that the child has sufficient capacity to understand the act or neglect, and to know that it was wrong.
- Creates a Raise the Age Juvenile Justice Task Force that must consider and provide recommendations regarding expansion of juvenile jurisdiction to encompass persons ages 18 and 19.

Hearing Date: 3/15/21

Staff: Luke Wickham (786-7146).

Background:

Age of Capacity to Commit a Crime.

Children under age 8 are incapable of committing crime in Washington. Children from age 8 to under age 12 are presumed incapable of committing crime, but that presumption may be removed by proof that he or she has sufficient capacity to understand the act or neglect and to

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know that it was wrong.

Courts have held that the determination of capacity must be made in reference to the specific act charged, and this determination is fact-specific. In addition to the nature of the crime, other elements may be relevant in determining whether the child knew the act was wrong including:

- the child's age and maturity;
- whether the child exhibited a desire for secrecy;
- whether the child admonished the victim not to tell;
- prior conduct similar to that charged;
- any consequences that attached to that prior conduct; and
- acknowledgement that the behavior is wrong and could lead to detention.

Juvenile Court.

In the State of Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under age 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts. There are three situations where adult criminal courts may have jurisdiction over persons under age 18:

- The juvenile court declines jurisdiction to adult court following a discretionary decline hearing which a court can initiate on its own motion or any party may file a motion requesting the court transfer the juvenile to adult court only if:
 - the respondent is at least age 15 and is charged with a serious violent offense;
 - the respondent is age 14 or younger and is charged with Murder in the first or second degree; or
 - the respondent is any age and is charged with custodial assault and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age 21.
- The juvenile court is required to hold a decline hearing in circumstances when the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
- Adult criminal courts have exclusive jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
 - a serious violent offense;
 - a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense, two or more prior violent offenses, or three or more of any combination of class A felonies, class B felonies, Vehicular Assault, or Manslaughter in the second degree; or
 - Rape of a Child in the first degree.

Juvenile court dispositions are subject to statutory sentencing guidelines. Juvenile offenses are categorized using letters E through A++ to indicate the seriousness level of the offense. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication counts as one point, and each prior violation, misdemeanor, or gross misdemeanor counts as one-fourth point. Fractional points are rounded down.

The sentencing category called local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community service, up to 150 hours of community service, and up to a \$500 fine. When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility.

Any confinement imposed that is greater than 30 days is served through commitment at a Department of Social and Health Services juvenile rehabilitation facility.

Summary of Engrossed Substitute Bill:

The ages of children who are incapable of committing crimes is increased from under age 8 to under age 13. Children age 8 through 12 charged with Murder in the first or second degree are presumed incapable of committing crime, but that presumption may be rebutted by clear and convincing evidence that they have sufficient capacity to understand the act or neglect, and to know that it was wrong.

The authority for youth courts is limited to individuals ages 13 through 17, instead of 8 through 17.

Raise the Age Juvenile Justice Task Force.

A Raise the Age Juvenile Justice Task Force (Task Force) is created with the following members:

- two Senators (one from each caucus);
- two members of the House of Representatives (one from each caucus);
- an individual representing the:
 - Juvenile Rehabilitation Administration;
 - Department of Corrections;
 - Washington Association of Sheriffs and Police Chiefs;
 - Office of Public Defense;
 - Washington Association of Prosecuting Attorneys;
 - District and Municipal Court Judges' Association;
 - Administrative Office of the Courts;
 - Washington State Association of Counties;
 - Association of Washington Cities;
 - Washington State Council of County and City Employees;
 - Office of the Superintendent of Public Instruction;
 - Minority and Justice Commission;
 - Superior Court Judges Association, with one member from Eastern Washington and one member from Western Washington;
 - Washington Association of Juvenile Court Administrators, with one member from Eastern Washington and one member from Western Washington;

- Washington State School Directors' Association, with one member representing a school district that provides education services to a juvenile rehabilitation residential facility;
- organizations with interests in incarcerated persons, with two representatives each representing different programs and serving different constituencies; and
- organizations with interests of youth involved in the juvenile justice system, with three representatives from different regions of the state or representing different programs.

The legislative membership is required to convene the first meeting of the Task Force no later than September 1, 2021, and additional Task Force meetings must be held at least once a month. The Task Force must choose its chair from among the legislative membership.

Staff support for the Task Force must be provided by the Office of Juvenile Justice.

The Task Force must consider and provide recommendations regarding implementation of juvenile jurisdiction to encompass persons ages 18 and 19. The Task Force must report to the Governor and the Legislature on the status and plan for the expansion, including necessary funding, essential personnel and programmatic resources, measures necessary to avoid a negative impact on the state's child protection response, and specific milestones related to operation and policy by December 1, 2022.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 12, 2021.

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