
SUBSTITUTE SENATE BILL 6443

State of Washington

66th Legislature

2020 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Kuderer, Das, Darneille, Wilson, C., and Nguyen)

READ FIRST TIME 02/06/20.

1 AN ACT Relating to convictions for offenses that were committed
2 at age sixteen or seventeen and placed in exclusive jurisdiction of
3 the juvenile court in 2018; adding a new section to chapter 13.04
4 RCW; creating new sections; making an appropriation; providing an
5 effective date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** This act provides a mechanism for persons
8 convicted in adult court for an offense committed at age sixteen or
9 seventeen between July 1, 1997, and June 7, 2018, that was subject to
10 autodecline at the time of commission, but subsequently transferred
11 to the exclusive jurisdiction of the juvenile court by chapter 162,
12 Laws of 2018, to petition for the vacation of their judgment and
13 sentence, and to transfer the offense to juvenile court for final
14 disposition as a juvenile matter under Title 13 RCW.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.04
16 RCW to read as follows:

17 (1) Any person convicted under exclusive original adult criminal
18 jurisdiction between July 1, 1997, and June 7, 2018, for an offense
19 committed at the age of sixteen or seventeen may petition the court
20 of conviction to vacate the judgment and sentence and transfer the

1 offense for final disposition in juvenile court under the juvenile
2 law at the time of vacation and as if the petitioner were still a
3 juvenile if the conviction was for one of the following offenses:

4 (a) Robbery in the first degree;

5 (b) Drive-by shooting;

6 (c) Burglary in the first degree when the juvenile has a criminal
7 history consisting of one or more prior felony, misdemeanor, or gross
8 misdemeanor offenses; or

9 (d) Any violent offense as defined in RCW 9.94A.030 and the
10 juvenile is alleged to have been armed with a firearm.

11 (2) Upon receiving the petition, the superior court shall vacate
12 the judgment and sentence, and transfer the offense to juvenile court
13 for final disposition under the juvenile law at the time of vacation
14 and as if the petitioner were still a juvenile only if the following
15 are applicable:

16 (a) For the purpose of these proceedings, the petitioner
17 stipulates and agrees:

18 (i) To the existence of appropriate jurisdiction of the juvenile
19 court to carry out the procedures under this section;

20 (ii) That matters appertaining to the vacation of judgment and
21 sentence and final disposition in juvenile court are the only issues
22 eligible to be raised by the petitioner or decided by the court in
23 any proceeding under this section, and that the validity of the
24 underlying convictions shall not be questioned, except that the
25 juvenile court may address whether records of the offense transferred
26 to juvenile court are eligible for sealing under RCW 13.50.260;

27 (iii) To an automatic extension of juvenile court jurisdiction
28 for purposes of imposing a disposition and supervision up to the age
29 of twenty-five, regardless of the limitations set forth in RCW
30 13.40.300; and

31 (iv) That the petitioner understands that the juvenile court
32 shall not be required to impose a standard range disposition, but may
33 impose any disposition allowed pursuant to this title, provided that
34 the juvenile court shall not impose any term of confinement,
35 financial penalties, or restitution that exceeds the terms of the
36 petitioner's previous judgment and sentence; and

37 (b) The offense would currently be subject to exclusive adult
38 jurisdiction under RCW 13.04.030 if the petitioner were still a
39 juvenile.

1 (3) In the event the petitioner is age twenty-five or older at
2 the time of resentencing, the adult superior court shall maintain
3 jurisdiction to impose a juvenile disposition order under Title 13
4 RCW without the necessity for transfer to juvenile court.
5 Jurisdiction to enforce terms of supervision, sanctions, and
6 confinement shall end at the conclusion of the disposition hearing.

7 (4) If an offense is transferred to juvenile court for final
8 disposition under this section, the court shall issue a temporary
9 order continuing any no-contact orders or other affirmative
10 conditions under the vacated judgment and sentence pending the
11 disposition hearing in juvenile court. The court may establish
12 conditions of release pending the juvenile court disposition hearing.

13 (5) Upon disposition in juvenile court, the petitioner must
14 receive credit for any confinement served and financial restitution
15 or penalties paid.

16 (6) Any petition under this section or RCW 13.40.030 received by
17 mail or submitted in person to the superior court of the judicial
18 district in which the petitioner was originally convicted must be
19 reviewed by the superior court within thirty days of receipt of the
20 written petition.

21 (7) The superior court shall not charge a filing fee for
22 petitions submitted under this section. The superior court may
23 consider testimony by the petitioner if deemed relevant. The
24 petitioner must acknowledge in the initial written petition whether
25 the petitioner will appear in person for the resentencing review
26 hearing. The superior court must review, transfer, and dispose of the
27 case as required, regardless of whether the petitioner is present,
28 with copies of court orders sent to the petitioner at the
29 petitioner's last known address or to an address specified in the
30 petition.

31 (8) It shall not be a bar to a petition for relief under this
32 section if a conviction is under appeal. If successful, the
33 petitioner may continue to maintain an appeal of any issues not
34 mooted by the relief granted under this section.

35 (9) The prosecuting attorney shall make a reasonable effort to
36 contact any victim in the case requested for transfer to juvenile
37 court. In the event the victim is contacted, he or she shall be
38 provided an explanation for the petition and transfer. The victim may
39 participate in any resentencing, but is not required to do so.

1 (10) Any relief granted under this section shall have no effect
2 on any unrelated conviction under a different cause number occurring
3 after the date of the court's original judgment and sentence in the
4 matter.

5 (11) Chapter 9.94A RCW is not applicable to any proceedings under
6 this section. All final dispositions entered under this section are
7 subject to Title 13 RCW, including RCW 13.04.450. A final disposition
8 under this section is a juvenile matter for all purposes, including
9 all rights, consequences, and remedies under Title 13 RCW, including
10 for the purpose of sealing records under RCW 13.50.260.

11 NEW SECTION. **Sec. 3.** The department of corrections, in
12 collaboration with the administrative office of the courts and the
13 office of civil legal aid, shall provide written notice by June 30,
14 2020, to all eligible persons of their right to petition the court
15 for resentencing. The written notice must describe the process of
16 filing the petition, describe the process by which the petition shall
17 be reviewed, include information related to accessing legal
18 assistance, and include the form required for making necessary
19 stipulations. A list of eligible persons with current contact
20 information must be shared with the office of civil legal aid.

21 NEW SECTION. **Sec. 4.** The sum of five hundred thousand dollars,
22 or as much thereof as may be necessary, is appropriated for the
23 fiscal year ending June 30, 2021, and the sum of five hundred
24 thousand dollars, or as much thereof as may be necessary, is
25 appropriated for the fiscal year ending June 30, 2022, from the
26 general fund to the office of public defense solely for the purpose
27 of providing funds to legal advocacy organizations for the legal
28 assistance needed to assist petitioners with complying with this act.

29 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect March 31, 2020.

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