

LEGISLATIVE DRAFT

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By Representatives Pettigrew, Klippert, Goodman, Appleton, Jinkins, Frame, Ormsby, Santos, and Kagi.

AN ACT Relating to persons sentenced for offenses committed prior to reaching twenty-five years of age; amending RCW 9.94A.730; 13.40.300; 13.04.020; 10.95.030; 10.95.035; 9.94A.540; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature recognizes state and national efforts to reform policies that incarcerate youth in the adult criminal justice system. That youthfulness both lessens a juvenile's moral culpability and enhances the prospect that, as a youth matures into an adult and neurological development occurs, these individuals can become contributing members of society.

The legislature acknowledges the science on brain development in youth that concludes their corresponding abilities to make rational decisions, process emotions, and manage impulses are not complete until their mid-twenties. There are different skill sets needed to serve individuals through age 25.

The legislature intends to enhance community safety by emphasizing rehabilitation of youthful individuals. Juveniles who come into contact with the criminal justice system shall be under the jurisdiction of the juvenile rehabilitation administration or the authority of the department of social and health services until their twenty-fifth birthday. This emphasis on rehabilitation and reform is to promote improved outcomes for youth, public safety, and taxpayer resources.

Sec. 2 RCW 9.94A.730 and 2015 c 134 s 6 are each amended to read as follows:

Early Release for Persons Convicted of One or More Crimes Committed Prior to Twenty-Fifth Birthday ___ Petition To Indeterminate Sentence Review Board ___ Conditions ___ Assessment, programming, and services ___ Examination ___ Hearing ___ Supervision ___ Denial of Petition

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's twenty-fifth birthday may petition the Indeterminate Sentence Review Board for early release after serving no less than twenty years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's twenty-fifth birthday, and the person has not committed a major violation in the twelve months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) When an individual who will be eligible to petition under this section has served fifteen years, the department shall conduct an assessment. ...

(3) ...

(4) In a hearing conducted under subsection (3) of this section ... the procedures for victim and survivor of victim input shall be developed by rule. ...

Sec. 3 RCW 13.40.300 and 2005 c 238 s 2 are each amended to read as follows:

In no case may a juvenile offender be committed by the Juvenile Court to the Department of Social and Health Services for placement in a juvenile correctional institution beyond the juvenile offender's twenty-fifth birthday. ...

Sec. 4 RCW 10.95.030 and 2010 c 94 s 3 are each amended to read as follows:

...

(2) ... Nor shall a person be sentenced to death if the crime was committed during the developmental period set forth in (e) of this section.

(e) "Developmental Period" means the period of time between conception and the twenty-fifth birthday.

(3)(a) Any person convicted of the crime of aggravated first degree murder... prior to the person's twenty-fifth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years.

(b) At the time of sentencing, the court must exercise its discretionary powers when considering mitigating circumstances in setting a minimum term as provided by law.

Sec. 5 RCW 10.95.035 and 2015 c 134 s 7 are each amended to read as follows:

Return of Persons To Sentencing Court If Sentenced Prior To June 1, 20__, Under This Chapter Or Any Prior Law, For A Term Of Life Without The Possibility Of Parole For An Offense Committed Prior To Twenty-Fifth Birthday.

(1) A person, who was sentenced prior to June 1, 20__, to a term of life without the possibility of parole for an offense committed prior to their twenty-fifth birthday, shall be returned to the sentencing court or the sentencing court's successor for sentencing consistent with RCW 10.95.030. Release and supervision of a person who receives a minimum term of less than life will be governed by RCW 10.95.030.

Sec. 6 RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read as follows:

...

(e) An offender convicted of the crime of aggravated first degree murder ... prior to the offender's twenty-fifth birthday shall be sentenced to a term of total confinement of no less than twenty-five years.

Sec. 7 RCW 9.94A.030 and 2016 c 81 s 16 are each amended to read as follows:

...

(35) "Offender" means a person who has committed a felony established by state law and is [twenty-five] years of age or older or is less than [twenty-five] years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110... Through this chapter, the terms "offender" and "defendant" are used interchangeably.

Although there has been recent amendments made to this statute, the legislature has not taken the necessary steps to redefine the term "offender" in light of the Supreme Court's decisions in Roper, Graham, and Miller.

When the legislature enacted RCW 9.94A.030 (35), it did not have the benefit of psychological and neurological studies showing that the "parts of the brain involved in behavior control" continue to develop well into a person's 20's. (see Terry A. Maroney, *The False Promise of Adolescent Brain Science In Juvenile Justice*, 85 *Notre Dame L. Rev.* 89, 152 & n. 252 (2005)); MIT Young Adult Development Project: *Brain Changes*, Mass. Inst. of Tech., Aug. 4, 2015 ("The brain isn't fully mature at... 18, when we are allowed to vote, or at 21, when we are allowed to drink, but closer to 25, when we are allowed to rent a car."); Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 *Ann. N.Y. Acad. Sci.* 77 (2004) ("The dorsal lateral prefrontal cortex, important for controlling impulses, is among the latest brain regions to mature without reaching adult dimensions until the early 20's.")

Thus, scientific advances in the study of adolescent brain development requires the legislature to rethink and amend its definition of "offender" under RCW 9.94A.030 (35).