

# Racial and Ethnic Impact Analysis

HB 1178, 2025

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# Executive Summary

Racial and Ethnic Impact Statements (REIS) provide information related to the potential impacts of a policy change on individuals from different racial and/or ethnic backgrounds. The purpose of these statements is to provide additional information to policymakers to aid in identifying potential unwanted disparities in the criminal justice system. This report provides information the potential impacts of House Bill (HB) 1178: Concerning Sentencing Enhancements, introduced in the 2025 Washington State Legislature.

## HB 1178 REIS

The PSPRC examined the potential for disproportionate impacts resulting from HB 1178: Concerning Sentencing Enhancements. Using data from sentences imposed in fiscal year (FY) 2024, the PSPRC concludes the following:

- Changes to the firearm and deadly weapon enhancement laws have the potential to reduce racial disproportionality in the length of prison sentences for Black individuals compared to White individuals.
- Although Black and White individuals sentenced with a firearm or deadly weapon enhancement are equally likely to be subject to multiple, stacked enhancements, the impact of stacking disproportionately increases total confinement time for Black individuals compared to White individuals. Thus, eliminating mandatory stacking could have unique impacts on disproportionality in the Washington prison population.
- Elimination of the criminal street gang enhancement and controlled substance enhancements (Presence of a Minor; Protected Zone) would have no estimable direct impact on racial disproportionality due to their minimal application (<10 per fiscal year).
- Elimination of the requirement to serve sentencing enhancements in total confinement and without earned release time may have a larger impact on the total confinement time for Black individuals compared to White individuals as Black individuals tend to receive longer sentences of confinement for sentencing enhancements.
- Due to the discretionary nature of sentencing enhancements, the true impacts may vary. Changes to sentencing enhancements could result in changes to prosecutorial approaches to plea bargains, resulting in an unknown impact on disproportionality.

## Bill Summary

House Bill 1178 would make several changes to sentencing enhancements for felony offenses.<sup>1</sup> Specifically, HB 1178 includes the following modifications to current statutes governing sentencing enhancements:

1. Elimination of the sentencing enhancement (24 months) for drug offenses committed in protected zones;
2. Elimination of the sentencing enhancement (increase in the standard range by 125%) for offenses that involve minors in a criminal street gang-related felony;
3. Removal of the requirement that multiple firearm and/or deadly weapon enhancements be served consecutively and instead allows judicial discretion to order they be served consecutively, when deemed appropriate;
4. Elimination of the restrictions currently prohibiting confinement time associated with sentencing enhancements from being served in partial confinement or eligible for earned early release time.

## Racial and Ethnic Impact Assessment

The impacts of HB 1178 may vary as the provisions apply differently to different types of sentencing enhancements. In addition, it is possible that practitioners (e.g., prosecutors and judges) would act differently after implementation of the aforementioned changes to sentencing enhancements. Given the wide discretion associated with the criminal justice system, particularly with the plea bargaining process, it is possible the outcomes could vary dramatically from the following projections. As always, we encourage the completion of post-implementation research to identify the true impact of sentencing enhancement reforms.

For clarity, we provide a separate discussion for each type of sentencing enhancement.

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<sup>1</sup> For additional details, review the [Bill Analysis](#) prepared by non-partisan legislative staff for the Community Safety Committee.

## Firearm and Deadly Weapon Enhancements

Black defendants represented 28.8% of individuals receiving a firearm or deadly weapon (FA/DW) enhancement, but only 13.9% of individuals receiving a felony conviction in FY 2024. The odds of having a conviction with a FA/DW enhancement were 2.78 times greater for Blacks defendants than for White defendants. Figure 1 shows the comparison of FY 2024 felony convictions and FY 2024 felony convictions with a FA/DW enhancement, by race and Table 1 shows the disproportionality index of felony FA/DW enhancements in FY 2024

Figure 1. Comparison of FY 2024 Felony Convictions and FY2024 Felony Convictions with a Firearm or Deadly Weapon (FA/DW) Enhancement, by Race

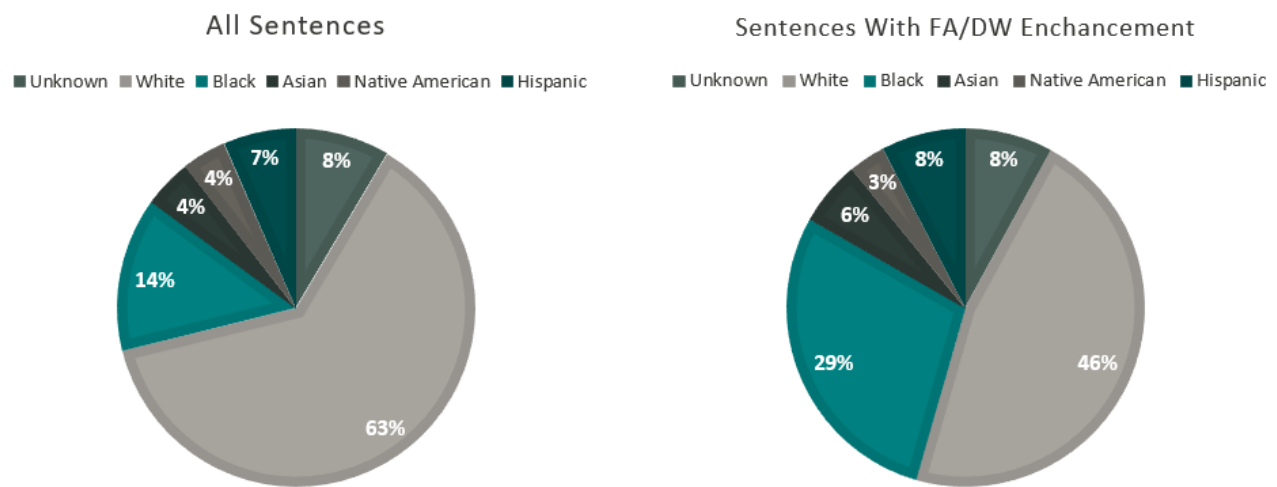


Table 1. Disproportionality Index: Felony Firearm and Deadly Weapon (FA/DW) Enhancements, FY 2024

	Sentences with FA/DW Enhancement	Sentences without FA/DW Enhancement	% within race	Disproportionality index (compared to Whites)
Unknown	31	1,274	2.38%	1.25
White	183	9,446	1.90%	--
Black	113	2,024	5.29%	<b>2.78</b>
Asian	23	654	3.40%	1.79
Native American	13	597	2.13%	1.12
Hispanic	30	980	2.97%	1.56

**Notes:**

Race is as recorded on the judgement and sentence form and reported as collected by the Caseload Forecast Council.

Values greater than 1 on the disproportionality index indicate a greater likelihood of having a conviction with a FA/DW enhancement compared to the likelihood for White defendants.

Sentences may include multiple convictions for multiple offenses and may include multiple FA/DW enhancements.

Current statutes require that firearm and deadly weapon enhancements be served in total confinement, without earned time, and consecutively to any other part of the sentence. These provisions, known as “stacking” may substantially increase total confinement time associated with a particular sentence.<sup>2</sup> Table 2 shows the potential impact of concurrent sentencing.

Table 2. Potential Impact of Concurrent Sentencing

	Sentences with FA/DW Enhancements		
	Single FA/DW Enhancement	Stacked FA/DW Enhancements	% with Stacked Enhancements
White	135	34	20%
Black	83	24	22%
Asian	19	4	17%
Native American	8	3	27%
Hispanic	25	5	17%

	Reductions if Stacked Enhancements Ran Concurrent (Months)			
	Minimum	Maximum	Average	Median
White	6	504	87	48
Black	12	312	79	60
Asian	12	300	87	18
Native American	12	36	26	30
Hispanic	12	72	46	60

**Notes:**

Race is as recorded on the judgement and sentence form and reported as collected by the CFC.  
 Reduction statistics assume all FA/DW enhancements would be run concurrently where they are currently stacked.  
 Excludes cases resulting in a life sentence or sentencing alternative as there would be no associated reduction in confinement even if stacked enhancements were ordered to run concurrently.

The Caseload Forecast Council (CFC) calculated the possible reduction in confinement time if FA/DW enhancements were to run concurrent rather than consecutive. Among defendants sentenced with a FA/DW enhancement, the likelihood of having multiple, stacked enhancements was similar across race. However, the impact of stacked enhancements on total confinement time varied. While the average reduction in confinement time was greater for White defendants than for Black defendants, this was driven by two outlier cases with White defendants convicted of murder in the first degree who received over 400 months of confinement time from stacked enhancements. Looking at the median reductions, our findings suggest that, overall, Black defendants had the potential for the largest reductions in incarceration time. These findings are consistent with prior analyses of Washington’s prison population.<sup>3</sup>

<sup>2</sup> Stacking does not have an impact on cases where the final sentence is life in prison.

<sup>3</sup> Jones, K., Keogh, K., and Saxe, C. (2022). Sentence enhancements and race. Olympia, WA: Department of Corrections.

The differences in the impact on confinement time may be due to Black defendants having a greater total number of enhancements that are stacked or due to Black defendants being more likely to be charged and convicted of more serious offenses (i.e., Class A offenses instead of Class B), resulting in longer confinement time per enhancement. Regardless of the cause, these findings suggest that stacking of FA/DW enhancements has a unique impact on overall disproportionality in the prison population in Washington due to the disproportionate effects on total confinement time.

## Controlled Substance Enhancements (Involving a Minor; Protected Zone)

An additional 24 months of confinement is added to the standard sentence range for controlled substance violations that are 1) related to the manufacture of methamphetamine in the presence of a minor or 2) committed in a protected zone. In Washington, protected zones include: schools and school buses; the area within 1,000 feet of a school bus route or school grounds; public parks; public housing projects designated as a drug-free zone; public transportation vehicles and stop shelters; civic centers; and the area within 1,000 feet of a civic center if designated by the local governing authority.

In FY 2024, there were nine sentences with an aforementioned controlled substance enhancement. Further, five of those nine sentences were resolved with a sentencing alternative, with no confinement time resulting from the respective enhancement.<sup>4</sup> Three of the nine sentences receiving 24 months of incarceration for the controlled substance enhancement were for White individuals, while one was for a Hispanic individual.

Further, the minimal use of the controlled substance enhancements in FY 2024 likely also reflects recent legislative decisions to reclassify possession of a controlled substance to a misdemeanor offense rather than a felony.<sup>5</sup> Enhancements apply only to felony sentencing and are no longer applicable to possession offenses charged as a misdemeanor.

Due to the minimal use of the controlled substance enhancements, we cannot make any conclusions about a measurable impact on racial disproportionality. However, prior research on similar policies in other states has found meaningful disproportionality, due in large part to the varying impact of policies in urban and rural areas. Dense, urban areas tend to have a greater percentage of residents of color while rural areas tend to be more White individuals. Washington state is no exception to these trends (see Figure 2). Given the scope of the statutes, protected zones may include virtually all areas within urban areas, making nearly all arrests in urban areas eligible for the enhancement while having more limited application in rural communities.<sup>6</sup>

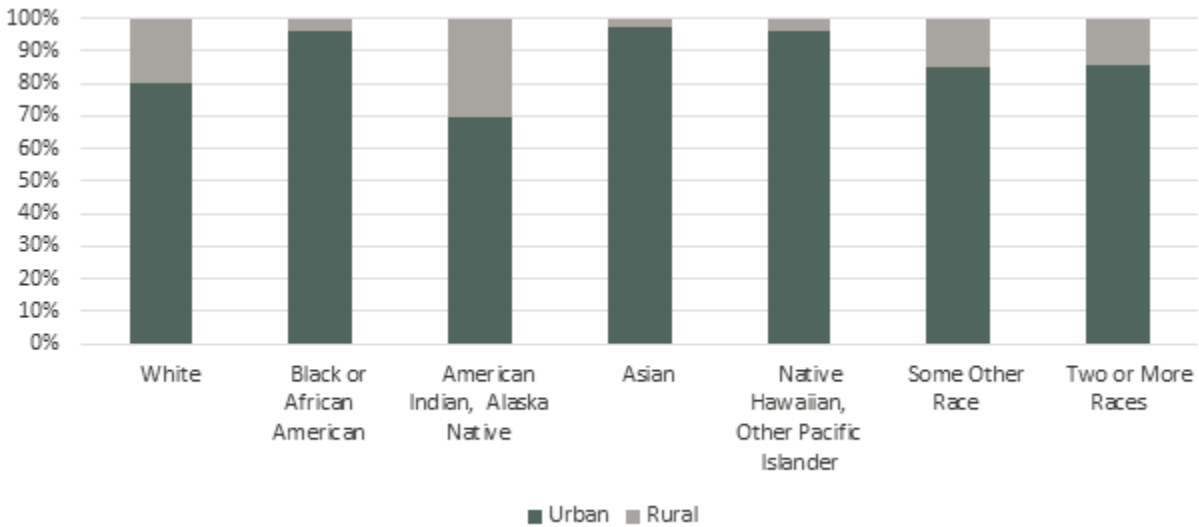
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<sup>4</sup> Three sentences resulted in a first-time offender waiver, one with the mental health sentencing alternative, and another with the parenting sentencing alternative.

<sup>5</sup> [Second Substitute House bill 1210, Chapter 16, Laws of 2022](#); [Second Engrossed Second Substitute Senate Bill 5536, Chapter 1, Laws of 2023](#).

<sup>6</sup> See Greene, J., Pranis, K., and Ziedenberg, J. (2006). Disparity by design: How drug-free zone laws impact racial disparity – and fail to protect youth. Washington D.C.: Justice Policy Institute.

Figure 2. Urban-Rural Population Distribution, by Race (2023)



*Source: U.S. Census Bureau, U.S. Department of Commerce. (2023). Race. American Community Survey, ACS 1-Year Estimates Detailed Tables, Table B02001. Retrieved January 31, 2025.*

### Involvement of a Minor in a Criminal Street Gang

There were no convictions with a sentencing enhancement for involving a minor in a criminal street gang-related felony in FY 2024. In fact, this enhancement has been used only once since it was created in 2008.<sup>7</sup> Thus, there is no expected impact on racial disproportionality.

### Partial Confinement and Earned Time

HB 1178 removes restrictions that require FA/DW enhancements, impaired driving enhancements, and sexual motivation enhancements to be served in total confinement and excludes the associated confinement time from earned release time. It is difficult to predict whether or how much of the confinement time associated with these sentencing enhancements would be ordered to be served in partial confinement or how much earned time individuals would accrue. However, we can assess the relative total confinement time that is associated with enhancements by race that would be eligible for potential reduction.

Table 3 depicts the minimum, maximum, average, and median confinement time associated with the aforementioned sentencing enhancements. On average, Black and Native American individuals have the potential for the largest reductions in total confinement time. Overall, these findings are largely driven by the potential change to FA/DW enhancements. In total, there were 17 sentences with a sexual

<sup>7</sup> [Engrossed Second Substitute House Bill 2712](#), Chapter 276, Laws of 2008.



motivation enhancement (excluding sentencing alternatives and determinate plus sentences), 4 sentences with impaired driving enhancements, and 376 sentences with FA/DW enhancements. Subsequently, the changes to mandatory total confinement and earned time may also have a unique reduction in racial disproportionality in the prison population as discussed with Figure 1 and Table 1.

Table 3. Total Enhancement Time Excluded from Partial Confinement and Earned Time

	Confinement Time Resulting from Enhancements (Months)			
	Minimum	Maximum	Average	Median
White	6	624	50.2	36
Black	6	372	55.8	36
Asian	6	360	42.3	24
Native American	6	456	68.6	30
Hispanic	6	132	34.4	24

**Notes:**

Race is as recorded on the judgement and sentence form and reported as collected by the CFC.

Excludes cases resulting in a life sentence or sentencing alternative.

Includes firearm/deadly weapon enhancements (N = 376), impaired driving enhancements (N = 4), and sexual motivation enhancements (N = 17).