

FRESH START FOR CRIMINALIZED YOUTH

Advancing racial equity by promoting fair and proportional sentencing

HB 1413 Fresh Start for Youth legislation promotes fair and proportional sentencing and advances racial equity by retroactively prohibiting the use of juvenile adjudications in adult offender score calculations in the Sentencing Reform Act.

Fresh Start for Youth legislation would prevent juvenile adjudications from automatically increasing the sentencing ranges for individuals sentenced in adult court. It would also require offender scores that included juvenile points to be recalculated, promoting racial equity and addressing the egregious impact of current practices on communities of color.

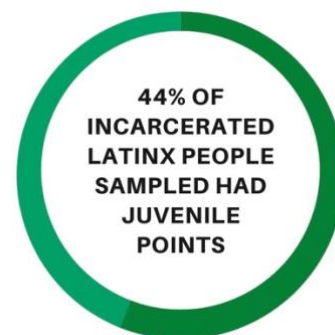
What is at issue? Sentences for individuals who have been convicted of felony offenses are largely determined by their offender scores, a score that requires—under Washington’s Sentencing Reform Act—inclusion of all juvenile court felony dispositions. Most states, however, do not include juvenile adjudications when calculating offender scores. The inclusion of juvenile points in Washington state is both outdated and racist: It stems in large part from misguided fears in the 1990s, when the distinction between youth and adults in the criminal legal system was blurred and when many were perpetuating the so-called super-predator myth—the racist theory that children who committed crimes, particularly Black children, were inherently violent and unable to be rehabilitated. These lies have been empirically exposed, but their legislative legacy persists in policies that punish individuals in adult court for youthful behaviors.

Washington’s practice flies in the face of the Juvenile Justice Act and our developing understanding of adolescent brain development. Instead of responding to youthful behaviors in juvenile court, youth in Washington accumulate criminal history ‘points’ that are used against them again as adults, essentially punishing them twice. ***This legislation gives us an opportunity to end this racist practice, redress some of the harms it has caused, and provide a developmentally appropriate response to youthful behavior.***

How would the passage of HB 1413 lessen racial inequities within our current system? Currently, communities of color are over-policed and harmed by biased policing practices and structural racism. As a result, youth of color are more likely than white youth to have juvenile records. ***The use of juvenile adjudications to determine adult offender scores adds to this inequity, amplifying racial disparities in sentencing.***

This legislation achieves important goals by:

- Promoting racial equity and justice.
- Acknowledging youth as a mitigating factor in adult sentencing.
- Incorporating the latest research in adolescent brain science into our sentencing practices.
- Bringing Washington in line with many other states.
- Ending some of the racist myths that have led to mass incarceration.



Recent research shows that people of color receive longer sentences as a result of prior juvenile adjudications (i.e. “juvenile points”): 80% of Native American people, 67% of Asian Pacific Islanders, 53% of Black people, and 44% of Latinx people in prison had juvenile points used in their sentencings. This compares to 27% of white people.¹ Research also shows that youth of color have on average more points than their white counterparts, corresponding with over-policing of communities of colors and other policing or prosecutorial actions that disproportionately impact people of color.

Juvenile points can considerably increase an individual’s sentencing range. Recent research shows that 42 percent of those incarcerated had one or more juvenile convictions used against them as adults, adding between .5 to 2 points to the offender score. The addition of 2 points can mean serving an extra decade or more in prison, exacerbating mass incarceration.²

What should we do instead? This legislation advances an expansive body of research conclusively showing that the still-developing brain places youth at a disadvantage since the last areas of the brain to develop are the frontal lobes, which govern impulse control, judgment, and decision-making. Under this proposed legislation, prosecutors and judges can factor an individual’s prior juvenile history into what plea offer to make or sentence to impose, but individuals won’t automatically face a more severe sentence for actions taken when they lacked the experience, perspective, and judgement to recognize and avoid detrimental choices.

HB 1413 gives us an opportunity to address mass incarceration, promote racial equity, and bring Washington in line with the most current understanding of adolescent brain science.

¹ See look2justice.org, which advocates for evidence-based sentencing practices and an end to outdated and racist criminal legal system policies.

² Ibid.