

# Modernize Sentencing for People Incarcerated as Young Adults

## *HB 1325 and SB 5451*

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This bill updates Washington's adult sentencing system to account for discoveries in developmental brain science proving that a young person's brain continues to develop into their twenties and is rarely fully developed before age 25. Many other states and jurisdictions, such as California and Washington D.C., have passed or are in the process of passing legislation that increases the age of consideration for post-conviction review. It is time for Washington to do the same. By increasing the age for sentence review consideration from 18 to 25, this bill modernizes state code, decreases incarceration costs, and takes meaningful steps to address racial disparities in sentencing. This bill does not guarantee release but rather offers the opportunity for incarcerated individuals who qualify to go before the Indeterminate Sentence Review Board for consideration.

### **Current Law Does Not Consider Modern Brain Science**

Current scientific research has demonstrated that young people's brains continue to develop into their twenties and are rarely fully developed before age 25. Questions of fairness and constitutionality regarding sentencing laws that do not consider developments in brain science have been raised by both the Supreme Court of the United States, in *Miller v. Alabama*, and repeatedly by the Washington state Supreme Court.<sup>1</sup> In 2014, in recognition of this research, Washington passed legislation offering people who were sentenced for offenses they committed while under the age of 18 the opportunity to have their sentence reviewed. Making an incremental change to existing law to increase the age for sentence review from 18 to 25 would address potential legal concerns and make state law more consistent with the growing national understanding, based on brain science, that this younger population should be uniquely considered in the criminal legal system.

### **This Bill Advances Racial Justice**

Massive racial disparities in sentencing for young adults contribute to the disproportionate and harmful impact of the criminal legal system and mass incarceration on communities of color. Racially disproportionate sentences are exceptionally high among those who are given long determinate sentences as young adults. For example, Black people make up 4.3% of the state's population, yet

account for 32% of those currently incarcerated who were sentenced as young adults and are serving a 15+ year sentence. In addition, there are more Black people currently incarcerated serving a determinate *de facto* life sentence (50+ years) they received as young adults than white people in the same situation. This bill advances race equity and brings Washington state in line with the best evidence regarding brain development. It would offer hope to a large population of incarcerated people, many of whom are people of color, who have been harmed by a determinate sentencing system that did not take into account their young age or capacity for change.

### **This Bill Allows for Capacity to Change**

As the Washington Supreme Court recently emphasized in *In re the Matter of the Personal Restraint of Derrius Forcha-Williams*, it is the responsibility of the legislature to ensure our sentences and sentencing procedures are fair and consistent with current science, and that they reflect our commitment to being a just society. This bill does not guarantee post-conviction release, but offers hope for incarcerated individuals who qualify to explore resentencing options. It also considers both how young people were when they entered the system, their commitment to rehabilitation and their capacity for change in the years since their original sentencing. Decades of brain science research has found that young people's brains continue to develop into their twenties and are not fully developed before age 25. Allowing them the potential opportunity to have their sentence reviewed ignites hope and encourages successful reintegration into their communities to contribute in ways they couldn't before.

Passing legislation to increase the age of consideration for a sentencing review from 18 to 25 would not only bring Washington's sentencing system in line with modern brain science, it would advance racial justice and account for the human potential for personal growth and change. HB 1325 modernizes our state's sentencing practices, welcoming Washington into a growing group of jurisdictions that recognize that young adults and the decisions they make should be considered in light of developmental brain science.

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<sup>1</sup> *Miller v. Alabama*, 567 U.S. 460 (2012)



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