

March 13, 2018

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Re: Veto request section 5 of E2SSB 6160: revising conditions under which a person is subject to exclusive adult jurisdiction and extending juvenile court jurisdiction over serious cases to age twenty-five.

Dear Governor Inslee,

We are writing on behalf of the Washington Defender Association (WDA) and Washington Association of Criminal Defense Lawyers (WACDL) to request that you veto section 5 of E2SSB 6160, which revises conditions under which a youth is subject to exclusive adult jurisdiction and amends the juvenile sentencing grid. We are supportive of the positive movement forward in E2SSB 61060 in reforming a portion of the negative juvenile sentencing changes made in the 1990s that were based upon misinformation and demonization of young people charged with crimes. It is a good first step. Unfortunately, however, this bill counteracts some of the positive gains by including two new sentencing enhancements in Section 5.

The bill increases the firearm enhancement to 12 months for any juvenile aged 16 or 17 who is adjudicated for a violent offense. In addition, a sentencing enhancement is created requiring three months total confinement, to be served consecutively with any other enhancement, to be added to the sentence of a youth aged 16 or 17 who is charged with robbery 1, drive-by shooting, burglary 1, or any violent offense while armed by a firearm if the court finds that the juvenile's participation was related to membership in a criminal street gang or related to advancing the benefit, aggrandizement, gain, profit, or other advantage of a criminal street gang. These enhancements are (1) in conflict with recent state and federal case law, (2) will lead to unnecessary increased juvenile sentencing ranges, and (3) are likely to enhance and perpetuate racial disproportionality in the juvenile justice system.

1. The enhancements violate the Washington State Supreme Court decision in *Houston-Sconiers*, as courts now require an individualized sentencing model that takes into account an assessment of the young person and the role his or her youth played in the offense. These enhancements are mandatory and require a finding of manifest injustice to avoid their imposition which clearly contradicts the holding of *Houston-Sconiers*.
2. The enhancements are an unnecessary addition to juvenile dispositions that already are lengthened in the bill. The bill increases sentencing ranges for youth who will be retained in the juvenile justice system, increasing the juvenile disposition offense category for a number of offenses, and creates a new A++ sentencing tier with a maximum disposition of 260 weeks.
3. "Criminal street gang" enhancements have been shown to disparately affect communities of color resulting in equal protection concerns and a perpetuation of

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WDA is a non-profit organization created in 1983 to promote, assist, and encourage public defense systems which ensure that all accused persons in every court receive effective assistance of counsel

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WACDL is a non-profit organization working to improve the quality & administration of justice by protecting & insuring by rule of law those individual rights guaranteed by the Washington and Federal Constitutions

disproportionality in the sentencing of minority youth. Whether a young person is incorrectly or correctly characterized as someone who has gang affiliations, the reality is that the enhancement will be targeted and imposed upon youth from poorer communities and youth of color, and will only serve as a punishment, not as a deterrent or to help reduce recidivism. Money that is spent on incarceration would be better spent in supporting youth, and on prevention and re-entry services in the communities most affected, not further perpetuating cycles of justice system dysfunction.

We strongly urge you to support youth and positive reform by vetoing section 5 of E2SSB 6160. Thank you for your consideration and please feel free to contact us if you have any questions.

Sincerely,



Christie Hedman
Executive Director, WDA



Teresa Mathis
Executive Director, WACDL