

EMERGING ADULT JUSTICE IN WASHINGTON STATE: PROGRESS AND PROMISES OF REFORM

January 2021

While it is common knowledge that the United States has dramatically higher incarceration rates—as well as racial disparities—compared with other nations, the key role that the incarceration of emerging adults plays in this crisis is often overlooked. Emerging adults (EAs, ages 18 to 25) are disproportionately represented in the share of arrests and incarceration both nationwide and in Washington.

**Share of Emerging Adults in Criminal Justice System,
United States and Washington (2016)**



Sources: US Census Bureau, FBI UCR, ICPSR, and WASPC.ⁱ

Furthermore, the disproportionate representation of Black EAs in these measures is particularly stark: **Black EAs in Washington are over four times more likely to be in prison than their White peers.**ⁱⁱ

Leading researchers find that adult justice systems are ill-equipped to meet the needs of this distinct age group. The Emerging Adult Justice Project builds on this research, highlighting reforms that promote developmentally appropriate practices for EAs involved with the criminal justice system.

Recent Progress Made in Washington

Washington state has made progress (a) in recognizing the need for and implementing reforms aimed at improving outcomes for youth involved in the criminal justice system and (b) in ensuring that youth in contact with this system are provided more developmentally appropriate responses. These reforms include:

- A 2018 ruling by the WA State Supreme Court that declared automatic life without parole sentences for juveniles unconstitutional, following the US Supreme Court's lead in *Graham v. Florida* (2010) and *Miller v. Alabama* (2012).ⁱⁱⁱ
- The passage of SB6550 in 2018 that expanded diversion for youth tried in the juvenile court, and under which youths' criminal records are destroyed after successful completion of positive programming^{iv}.
- The passage of HB1646 in 2019 that retains many EAs in the juvenile justice system and that has the effect of placing youth in Juvenile Rehabilitation facilities instead of adult Department of Corrections facilities. The Legislature subsequently passed legislation to apply these changes to existing sentences retroactively.^v

These reforms demonstrate that the state acknowledges the need to treat youth and EAs differently from older adults. **Washington state is well positioned to be a leader in recognizing the unique needs of EAs involved in the justice system and improving outcomes for this important but often overlooked age group.**

Promising Next Steps

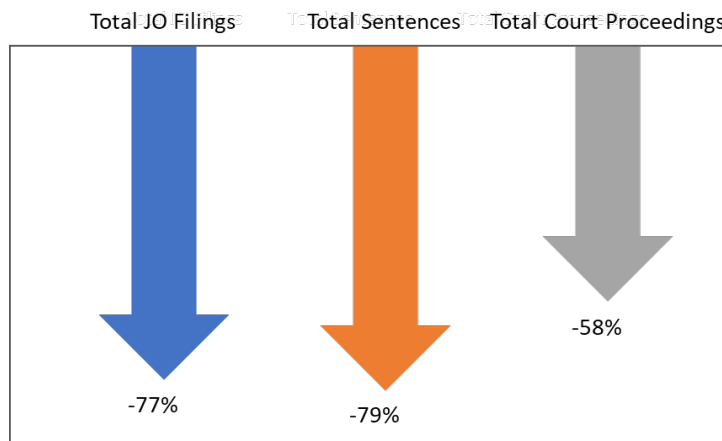
Washington legislators are looking towards the next step in expanding emerging adult justice: raising the upper age of the juvenile justice system to include more EAs. Introduced in January 2021, **SB 5122 presents a set of reforms to the jurisdiction of the state's juvenile court and juvenile facilities to encompass more EAs.** The Bill increases the juvenile court's maximum age limit to 19 from 17 over a three-year, two-phase roll out plan. The Bill also raises the age limit for youth to remain in juvenile facilities up to age 22 for those age 18 at the time of the offense, and to age 23 for those age 19 at the time of the offense.^{vi} Together, these reforms acknowledge the benefits EAs gain from the juvenile justice system and the possible harms they experience in the adult criminal system, as well as the ability for Washington's juvenile justice system to expand its jurisdiction to include more EAs.

Washington is not alone in its efforts to raise the upper age of its juvenile justice system. With the ratification of Act 201 in 2018, **Vermont became the first state to raise the upper age limit of its juvenile court jurisdiction beyond the 18th birthday.** Vermont's law provides that youth up to age 20 to be tried in family (juvenile) court, with exceptions for the most serious offenses. Like SB 5122, Act 201 rolls out reforms in two phases, first including youth who have allegedly committed an offense before their 19th birthday on July 1, 2020, then expanding to youth up to the 20th birthday in July 2022. States across the country including **California, Colorado, Connecticut, Illinois, Massachusetts, and Nebraska are considering similar reforms.** If Washington passes SB 5122, it could be a national leader.

Washington Juvenile Justice System Has Capacity

Washington's juvenile justice system has shrunk significantly over the past three decades. The **arrest rate for youth under 18 has plummeted** from close to 100 per 1,000 youth in 1994 to under 30 in 2013;^{vii} these rates continue to drop each year.^{viii} According to the Administrative Office of the Courts, the total Juvenile Offender (JO) filings decreased 77% from 31,494 in 1999 to 7,331 in 2019, of which only 2,706 were for felony offenses. The number of total sentences – to community supervision, detention, or other sanctions – have also drastically decreased, meaning **the juvenile justice system has fewer and fewer cases to manage**. Last, the **number of court proceedings has dropped by more than half**, meaning the juvenile court is poised to take on more cases.

Change in Washington Juvenile Justice Caseloads, 1999 to 2019



Sources: Superior Court Annual 1999 Caseload Report and Superior Court Annual 2019 Caseload Report.¹

While WA's Caseload Forecast Council predicts an increase in Juvenile Rehabilitation (JR) caseloads in the next few years due to clearing of the COVID judicial backlog, even their highest forecasts for 2023 are below 2013 levels and roughly the same as recent years.^{ix} Given this substantial decrease in arrests, caseloads, and facility populations for the juvenile justice system, WA appears to be in a good position to include older adolescents in the juvenile system, ensuring EAs receive developmentally appropriate services after their 18th birthday.^x

Washington is not alone in experiencing significant declines in juvenile justice caseloads. Massachusetts, Connecticut and New York have all seen sharp declines in the number of juvenile arrests, delinquency case filings, and sentencing to juvenile confinement in the last decade, even after raising the age of juvenile jurisdiction.^{xi}

In recent years, WA has also seen improvements in outcomes for youth in the juvenile justice system. **Recidivism rates within 18-months of being released to the community have decreased, with more than 70% of youth experiencing no recidivism in recent cohorts.** Compared to 18- to 21-year-olds and 22- to 25-year-olds, who have some of the highest rates of recidivism in the state,^{xii} it is evident that the juvenile justice system is producing stronger outcomes for youth of similar ages. In fact, while recidivism has been reduced for adults leaving

prison 31 years and older in recent years, adults ages 18 to 30 have seen increased recidivism.^{xiii} This finding indicates the strong need to improve outcomes for EAs in the justice system in Washington.

While some states have voiced concerns that raising the upper age of their juvenile justice system would be too costly, these fears have not been realized as states have raised the ages of their juvenile systems over the past decade. For example, Connecticut, which gradually increased the upper age of its juvenile jurisdiction from 16 to 18, was able to reinvest budget savings from raising the age in less costly and effective community-based approaches.^{xiv} Moreover, when maintained in the juvenile justice system, EAs will gain the benefits of record sealing applied to younger youth through SB6550 (2018), avoiding the collateral consequences of an adult criminal record. **EAs will thus be better positioned to become productive members of the State’s labor force, less likely to require government assistance later in life, and consequently less likely to be re-arrested, ultimately saving the state money and reducing mass incarceration.** This would result in significant, long-term cost savings.

Conclusion

WA has joined a steadily growing number of states across the nation that are recognizing the robust body of research in the fields of neurobiology, developmental psychology, and sociology, which indicates that EAs are a distinct developmental group and that the adult legal system is exacerbating systemic inequities among EAs. By providing more effective and developmentally appropriate services, programs and opportunities to older adolescents, WA has an opportunity to both improve youth outcomes and increase public safety and, over time, decreasing the state’s criminal justice budget.

ⁱ US Population figures based on US Census estimates for 2016, available: <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-national-detail.html>. WA population figures based on US Census estimate, available: data.census.gov. US arrests based on FBI UCR, available: <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/table-20>. WA arrest data based on WA Association of Sheriffs and Police Chiefs (WASPC), available: <https://www.waspc.org/assets/CJIS/2016%20crime%20in%20washington.small.pdf>. US and WA state prison admissions based on ICPSR NACJD data for 2016, <https://www.icpsr.umich.edu/web/NACJD/series/38>.

ⁱⁱ Calculation were made by the EAJ Project using US Census and ICPSR data.

ⁱⁱⁱ Knoth, L., Drake, E., Wanner, P., & Westley, E. (2020). *Washington State’s juvenile justice system: Evolution of policies, populations, and practical research* (Document Number 20-01-1901). Olympia: Washington State Institute for Public Policy, p. 8. Available: http://www.wsipp.wa.gov/ReportFile/1719/Wsipp_Washington-State-s-Juvenile-Justice-System-Evolution-of-Policies-Populations-and-Practical-Research_Report.pdf

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- ^{iv} Washington State Legislature. "Senate Bill Report: SB 6550." January 31, 2018. <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bill%20Reports/Senate/6550%20SBR%20HSC%2018.pdf?q=20210121075240>
- ^v Knoth et al. 2020, pp. 8-9.
- ^{vi} Washington State Legislature. "Senate Bill Report: SB 5122." January 20, 2021. Available: <http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5122%20SBA%20HSRR%2021.pdf?q=20210121065442>
- ^{vii} Knoth et al. 2020, p. 11.
- ^{viii} The data recording systems have changed in recent years. See Knoth et al. 2020, pp. 37-38. When reviewing the NIBRS data for WA juvenile arrests (available for years 2013-2019), the rates drop each year on record. Data available:
- ^{ix} Washington State Caseload Forecast Council. (2020). "November 10, 2020 Forecast Narratives." Available: <https://www.cfc.wa.gov/Documents/Forecasts20201110.pdf>
- ^x It is worth noting that the same year that Vermont started implementing the Raise the Age Law (Act 201), it also closed its only juvenile prison. Juvenile justice systems generally have more resources available to keep youth living safely in their own communities, reducing the overall use of secure confinement.
- ^{xi} See, e.g., Emerging Adult Justice Project. (November 2020). *Massachusetts' Youth Justice System: Data Trends and Three Key Indicators*. Available: <https://static1.squarespace.com/static/5c6458c07788975dfd586d90/t/5faaa2bd6d2510345eb5b450/1605018301477/MA+Youth+Justice+Caseloads+Updated+Nov+2020.pdf>. Chester, L. and Schiraldi, V. (December 2016). *Public Safety and Emerging Adults in Connecticut: Providing Effective and Developmentally Appropriate Responses for Youth Under Age 21*. Available: https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/public_safety_and_emerging_adults_in_connecticut.pdf. Davis, J. and Rubin, K. (October 2020). *Expanding Youth Justice in New York*. Available: https://www.cdfny.org/wp-content/uploads/sites/3/2020/10/FINAL_Expanding-Youth-Justice-in-New-York-4.pdf.
- ^{xii} Knoth, L., Wanner, P., & He, L. (2019). *Washington State recidivism trends: FY 1995–FY 2014*. (Document Number 19-03-1901). Olympia: Washington State Institute for Public Policy. Exhibits 5, 14, 17. Available: http://www.wsipp.wa.gov/ReportFile/1703/Wsipp_Washington-State-Adult-and-Juvenile-Recidivism-Trends-FY-1995-FY-2014_Report.pdf
- ^{xiii} *Ibid*, p. 10.
- ^{xiv} Justice Policy Institute. (2017). *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*, p. 39. Available: <http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheage.fullreport.pdf>