Supreme Court No. ____
(COA No. 85718-5-I)

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

RYLEND FARRIS,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR SNOHOMISH COUNTY

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Ryland Farris asks this Court to accept review of the Court of Appeals decision under RAP 13.3 and RAP 13.4.

B. COURT OF APPEALS DECISION

Mr. Farris appealed his sentence. The Court of Appeals affirmed. *State v. Farris*, No. 85718-5-I, 2024 WL 4434413 (Wash. Ct. App. Oct. 7, 2024).

C. ISSUES PRESENTED FOR REVIEW

1. The trial court derives its sentencing authority entirely from statute. The plain language of RCW 9.94A.525 directs the court to calculate a person's offender score by counting their prior convictions at the time of sentencing. Effective July 23, 2023, the legislature removed most juvenile convictions from this calculation. Even though the statutory amendment was in effect at Mr. Farris's sentencing, the court included his two prior juvenile convictions and increased his punishment. The Court of Appeals decision affirming Mr. Farris's sentence conflicts with the plain language of the statute and published

decisions and is an issue of substantial public interest, requiring this Court's guidance. RAP 13.4(b).

2. In the alternative, a remedial statutory amendment applies to pending cases if that is the legislature's intent. Here, the legislature's statement of intent reflects this remedial amendment should apply to pending cases such as Mr. Farris's. This Court should accept review of this issue of substantial public interest. RAP 13.4(b).

D. STATEMENT OF THE CASE

Mr. Farris pleaded guilty to residential burglary for events that occurred in January of 2023. CP 69.

Then, the legislature barred sentencing courts from using most juvenile offenses to increase a person's offender score. Laws of 2023, ch. 415, § 2 (HB 1324). Effective July 23, 2023, the sentencing court could no longer consider those juvenile offenses at all. *Id.*

When the court sentenced Mr. Farris in August 2023, HB 1324 was in effect, prohibiting the court from considering his

juvenile offenses. Nonetheless, the court concluded HB 1324 did not apply to Mr. Farris's case, believing it was prohibited from calculating his offender score based on the law in effect at the time of sentencing. 8/3/23 RP 10. Based on the prior sentencing framework, the court relied on two prior juvenile convictions to increase Mr. Farris's offender score and sentenced him to a term within this heightened standard range. CP 28, 30. The Court of Appeals affirmed. App. 1.

E. ARGUMENT

1. RCW 9.94A.525 directs the court to calculate a person's offender score using their prior offenses as of "the date of sentencing." The Court of Appeals decision affirming Mr. Farris's sentence conflicts with the statute's plain language, other provisions, and binding precedent.

The offender score statute directs the sentencing court to calculate a person's offender score by counting their prior convictions as of "the date of sentencing." RCW 9.94A.525(1)(a). When the legislature removed nearly all juvenile offenses from the court's consideration, it meant that

the sentencing court cannot consider those juvenile offenses for anyone sentenced on or after July 23, 2023, such as Mr. Farris. The Court of Appeals decision to the contrary conflicts with the statute's plain language, other provisions in the Sentencing Reform Act (SRA), and is contrary to decisions by this Court and the Court of Appeals. This Court should grant review.

The trial court derives its sentencing authority entirely from statute. *State v. Ammons*, 105 Wn.2d 175, 180-81, 713 P.2d 719 (1986). "[T]he fixing of legal punishments for criminal offenses is a legislative function." *Id.* at 180. The legislature delineated the court's sentencing authority for adult convictions in the SRA, which directs the court to determine a standard range sentence based on the seriousness level of the offense and the person's offender score. RCW 9.94A.530(1). At issue in this case is RCW 9.94A.525, which instructs the sentencing court on how to calculate a person's offender score.

When interpreting a statute, the court is tasked with carrying out the legislature's intent. *Dep't of Ecology v.*

Campbell & Gwinn, L.L.C., 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002). "[I]f the statute's meaning is plain on its face, then the court must give effect to that plain meaning." *Id.* "Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous." *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003) (citation omitted). To determine a statute's plain meaning, courts examine the text of the statute, related statutory provisions, and the statutory scheme as a whole. *Campbell & Gwinn*, 146 Wn.2d at 9-12.

RCW 9.94A.525 specifically mandates the sentencing court calculate a person's offender score using their prior convictions, and it defines a prior conviction as: "a conviction which exists *before the date of sentencing* for the offense for which the offender score is being computed." RCW 9.94A.525(1)(a) (emphasis added). Effective July 23, 2023,

nearly all juvenile convictions[1] are excluded entirely. RCW 9.94A.525(1)(b) (Laws of 2023, ch. 415, § 2).

The statute's plain meaning is unambiguous: the date of sentencing is the operative date for counting prior convictions and calculating the offender score. *See J.P.*, 149 Wn.2d at 450 (courts must give effect to all language in the statute). For all sentencing hearings occurring on or after July 23, 2023, the court has no authority to count most juvenile convictions.

This plain meaning also comports with other provisions in the SRA. For example, prior convictions "shall count in the offender score if the *current version* of the sentencing reform act requires including or counting those convictions." RCW 9.94A.525(22) (emphasis added). Those prior convictions are scored pursuant to the current law even if they did not previously score pursuant to the law at the time of a previous

[1]First and second degree murder and class A felony sex offenses are still considered "prior convictions" to be included in the calculation of an offender score. RCW 9.94A.525(1)(b).

sentencing. *Id.* Similarly, when a court sentences a person for multiple convictions, those other offenses are treated "as if they were prior convictions" for the purposes of calculating the offender score. RCW 9.94A.589(1)(a). This is because those convictions exist at the time of sentencing, regardless of when they occurred.

This plain meaning also comports with decisions by this Court and the Court of Appeals holding that the SRA requires an offender score to be calculated at the time of sentencing. As the Court of Appeals has stated: "The offender score includes *all* prior convictions . . . existing at the time of that particular sentencing, without regard to when the underlying incidents occurred, the chronological relationship among the convictions, or the sentencing or resentencing chronology." *State v. Shilling*, 77 Wn. App. 166, 175, 889 P.2d 948 (1995) (emphasis in original). The Court of Appeals has reaffirmed this holding in more recent decisions. *See State v. Tester*, 30 Wn. App. 2d 650, 657, 546 P.3d 94 (2024) ("The triggering event for determining

a defendant's offender score is the defendant's sentencing for a conviction, at which the offender score is calculated."); *State v. Troutman*, 30 Wn. App. 2d 592, 600, 546 P.3d 458 (2024) ("[T]he statute at issue regulates which prior offenses are included in an offender score calculation, so the triggering event is sentencing.").[2] This Court and the Court of Appeals have also consistently held that subsequent convictions are included at resentencing, even if they occurred in time after the offense for which the person is being resentenced. *State v. Collicott*, 118 Wn.2d 649, 665-67, 827 P.2d 264 (1992); *State v. Clark*, 123 Wn. App. 515, 519, 94 P.3d 335 (2004).

Moreover, the *methods* used to calculate the offender score are separate from what prior convictions are scorable at all, as this Court has recognized. *State v. Moeurn*, 170 Wn.2d 169, 175, 240 P.3d 1158 (2010). RCW 9.94A.525(1) defines

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[2] The defendants in *Tester* and *Troutman* were both sentenced before HB 1324 went into effect. Because the law at the time of sentencing did not exclude their juvenile offenses, the Court of Appeals affirmed their sentences.

what prior convictions are "included" in the analysis before the court moves on to "scoring" them. *See id.*; *see also Tester*, 30 Wn. App. 2d at 657 ("RCW 9.94A.525(1) regulates which prior convictions count when calculating an offender score."). In other words, HB 1324 changed the "what," not the "how." *See State v. Swecker*, 154 Wn.2d 660, 666, 115 P.3d 297 (2005) (noting offender score calculation involves two different questions: "whether or not the prior offenses count" and "*how* the prior offenses count" (emphasis in original) (cleaned up)). HB 1324 removed nearly all juvenile offenses from the definition of prior convictions, thereby categorically excluding them from the court's consideration at all.

Only after the court has determined what are the prior convictions existing at the time of sentencing does the court then apply the methods to calculate the offender score. *Moeurn*, 170 Wn.2d at 175-76 (citing State of Wash. Sentencing Guidelines Comm'n, *Adult Sentencing Guidelines Manual*, at 1-13 (2008)). This includes determining if any convictions wash

out (RCW 9.94A.525(2)), which out-of-state convictions are not comparable (RCW 9.94A.525(3)), which convictions merge (RCW 9.94A.525(5)), and which convictions count for more than one point (RCW 9.94A.525(8), (9), (10), (11), (12), (13), (16), (17), (18), (21)). A juvenile offense must be scorable in the first place before it can be considered a prior conviction and be part of this calculation. *Moeurn*, 170 Wn.2d at 175-76; *see also* RCW 9.94A.525(7), (8), (9), (11), (12), (15), (18) (explaining how to count "scorable" juvenile offenses). Effective July 23, 2023, most juvenile offenses are no longer scorable at all.

Other statutes do not require a different conclusion. While RCW 9.94A.345 states that a sentence is generally determined based on the law in effect at the time of the offense, it contains an explicit exception: "Except as otherwise provided in this chapter." By its plain language, RCW 9.94A.345 applies where the legislature did not direct otherwise. This means the court will apply the law at the time of the offense for some

aspects of sentencing, such as determining the seriousness level, the standard range, or what constitutes a "strike." *See State v. Jenks*, 197 Wn.2d 708, 715, 487 P.3d 482 (2021). However, the offender score statute is an exception to this general rule: it clearly states "the date of sentencing" is the operative for what prior convictions can be counted in the offender score. RCW 9.94A.525(1)(a); *see In re Estate of Kerr*, 134 Wn.2d 328, 337, 949 P.2d 810 (1998) (a specific statute controls over a general one). RCW 9.94A.345 does not control in this context.

The saving clause statute, RCW 10.01.040, also does not change this conclusion. RCW 10.01.040 states a conviction and imposed sentence are generally not affected by a later statutory change. But for someone like Mr. Farris, who was not yet sentenced when HB 1324 went into effect, there was no "penalt[y] . . . incurred." RCW 10.01.040. In other words, there was no existing sentence to be impacted by the legislative

change. The saving clause statute is not relevant in this situation.

The SRA is clear: a person's offender score is determined by counting prior offenses as of the date of sentencing. Courts have done this for decades to increase a person's offender score, even at resentencing. The Court of Appeals's holding that the date of offense is the controlling date would disturb decades of sentences. The SRA does not permit a sentencing court to choose whatever operative date or version of the SRA would produce a higher score from which to punish a person.

The plain language of RCW 9.94A.525(1)(a) mandates "the date of sentencing" as the point in time at which to count prior offenses and calculate the offender score. The plain language is unambiguous, and this Court cannot construe the statute to mean anything else without rendering the statutory language meaningless. *See J.P.*, 149 Wn.2d at 450. Therefore, for all sentencing hearings on or after July 23, 2023, the court must exclude juvenile convictions, regardless of when the

offense for which the person is being punished occurred. RCW 9.94A.525(1)(b).

Despite the statute's clear directive, the Court of Appeals affirmed. The Court of Appeals acknowledged "RCW 9.94A.525(1) defines 'prior conviction' for the purposes of calculating the offender score. This definition pertains to which convictions factor into the offender score, not what law applies to the calculation." App. at 4. The Court of Appeals also stated "the amendment does not change the requirement in RCW 9.94A.525(1) that the offender score is calculated as of the date of sentencing." App. at 6 n.1.

This should have concluded the Court of Appeals's analysis. At the time of Mr. Farris's sentencing, his juvenile convictions were not within the SRA's definition of "prior convictions." Therefore, they could not factor into his offender score.

But the Court of Appeals unnecessarily turned to RCW 9.94A.345 to conclude otherwise. App. at 4. In doing so, the

Court of Appeals ignores the fact that the offender score statute is an exception to RCW 9.94A.345's general, catch-all rule: it plainly requires the court to score prior convictions as of "the date of sentencing." RCW 9.94A.525(1)(a). The Court of Appeals's conclusion is contrary to the plain language of RCW 9.94A.525(1)(a), related provisions, and binding precedent. This Court should grant review of this important issue of broad import. RAP 13.4(b)(1), (2), (4).

2. In the alternative, the legislature's statement of intent conveys HB 1324 should apply to pending cases.

The legislature explicitly enacted HB 1324 to immediately and completely stop the harmful practice of punishing people for what they did as a child. Laws of 2023, ch. 415, § 2. Where a statutory amendment impacts a sentence, it generally applies to pending cases. *State v. Jefferson*, 192 Wn.2d 225, 247, 429 P.3d 467 (2018). This is because the "triggering event"—in this case, sentencing—is a "future event" "that has not yet occurred." *Id.* Therefore, as the Court

of Appeals has held, HB 1324 applies to cases pending on direct appeal. *Troutman*, 30 Wn. App. 2d at 600.

While the legislature did not expressly apply HB 1324 retroactively to cases where a defendant has already been sentenced and their cases are final, it did not prohibit its application to cases that are still pending. The legislature's stated purpose in enacting this important change demonstrates it should apply to pending cases such as Mr. Farris's.

Whether a statute applies to pending cases depends on the language of the legislative act. *Dorsey v. United States*, 567 U.S. 260, 274-75, 132 S. Ct. 2321, 183 L. Ed. 2d 250 (2012) (citation omitted); *In re Detention of Elmore*, 162 Wn.2d 27, 35-36, 168 P.3d 1285 (2007). Here, the legislature clearly conveyed its intent that HB 1324 should apply to pending cases.

In enacting HB 1324, the legislature said it intends to:

> (1) *Give real effect* to the juvenile justice system's express goals of rehabilitation and reintegration;
> (2) *Bring Washington in line with* the majority of states, which do not consider prior

> juvenile offenses in sentencing range calculations for adults;
>
> (3) *Recognize the expansive body of scientific research on brain development*, which shows that adolescent's perception, judgment, and decision making differs significantly from that of adults;
>
> (4) *Facilitate the provision of due process* by granting the procedural protections of a criminal proceeding in any adjudication which may be used to determine the severity of a criminal sentence;
> and
>
> (5) *Recognize how grave disproportionality* within the juvenile legal system may subsequently impact sentencing ranges in adult court.

Laws of 2023, ch. 415, § 1 (emphases added).

This statement of intent uses strong words to reflect the seriousness of the legislature's goal to eliminate sentencing standards that automatically increase a person's punishment based on their actions as a child. Applying HB 1324 to pending cases aligns with the legislature's intent to meaningfully eliminate practices that further disproportionality. Unless it applies to pending cases, HB 1324 will not "give real effect" to the legislature's intent to remedy this injustice. *Id.*

In addition, courts broadly apply remedial statutory amendments to carry out the legislature's remedial purpose. *State v. Grant*, 89 Wn.2d 678, 685, 575 P.2d 210 (1978). "[R]emedial statutes are generally enforced as soon as they are effective, even if they relate to transactions predating their enactment." *State v. Pillatos*, 159 Wn.2d 459, 473, 150 P.3d 1130 (2007). "A statute is remedial when it relates to practice, procedure, or remedies and does not affect a substantive or vested right." *Id.* (citation omitted). "[R]emedial statutes are liberally construed in order to effectuate the remedial purpose for which the statute was enacted." *Grant*, 89 Wn.2d at 685.

HB 1324 is remedial. It is a procedural change because it changed the process the court uses to calculate the offender score, which is just one part of the court's sentencing determination. *See Pillatos*, 159 Wn.2d at 472 (the saving clause statute does not prohibit application of procedural changes in the law).

Applying HB 1324 to pending cases also furthers the remedial purpose of the amendment. *See Grant*, 89 Wn.2d at 685. Prior to the legislative change, the SRA directed the sentencing court to count all juvenile convictions in a person's offender score. Former RCW 9.94A.525(1) (Laws of 2021, ch. 215, § 100). But by enacting HB 1324, the legislature intended to eliminate outdated standards that resulted in "grave disproportionality." Laws of 2023, ch. 415, § 1. In order to carry out this remedial purpose, HB 1324 must apply to pending cases such as Mr. Farris's.

Despite acknowledging the legislature's statement of intent, the Court of Appeals concluded "the plain language of this section 'says nothing about retroactivity.'" App. at 5 (quoting *Troutman*, 30 Wn. App. 2d at 599). This ignores the fact that the legislature is not required to expressly say, "[t]his act shall apply to pending cases" in order for a change to apply to pending cases. *State v. Rose*, 191 Wn. App. 858, 865, 365 P.3d 756 (2015). Rather, "such intent need only be expressed in

words that fairly convey that intention." *Jenks*, 197 Wn.2d at 720 (citation omitted).

The Court of Appeals ignored the legislature's clear intent when it concluded HB 1324 does not apply to Mr. Farris's case. This frustrates and undermines the legislature's stated purpose of this important legislation. This Court should grant review of this important issue. RAP 13.4(b)(4).

F. CONCLUSION

Based on the preceding, Mr. Farris requests this Court grant review pursuant to RAP 13.4(b).

This brief is in 14-point Times New Roman, contains 3,048 words, and complies with RAP 18.17.

Respectfully submitted this 10th day of January 2025.

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APPENDIX

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10/7/2024
Court of Appeals
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, Respondent, v. RYLEND FARRIS, Appellant.	No. 85718-5-I DIVISION ONE UNPUBLISHED OPINION

CHUNG, J. — Rylend Farris challenges his sentence on his conviction for residential burglary. Farris's offender score, which was used to determine his sentence, included two juvenile adjudications. On appeal, Farris claims the juvenile adjudications should have been excluded, arguing that because a statutory amendment removing juvenile dispositions from a person's offender score went into effect in July 2023, before his sentencing in August 2023, the amendment applies to his sentence. Under RCW 9.94A.345 and the savings clause, RCW 10.01.040, the law that applies to sentencing is the law in effect at the time of the offense. The plain language of the 2023 amendment conveys no legislative intent that it applies retroactively, and the amendment does not alter the calculation of his offender score. We therefore affirm Farris's sentence.

FACTS

Farris pleaded guilty to one count of residential burglary committed while on community custody. In his statement on plea of guilty, Farris wrote, "On

January 5, 2023 in Snohomish County, WA I did unlawfully enter and remain in a dwelling. . . and did commit a theft of clothing from the dwelling." The State calculated an offender score of seven, including two juvenile offenses, theft in the first degree and promoting prostitution in the first degree. At his May 4, 2023 hearing on the guilty plea, Farris acknowledged this offender score and the parties agreed to a sentencing recommendation of 43 months of incarceration. The court accepted the guilty plea and set sentencing for June 1, 2023. The court subsequently granted a motion to continue the sentencing to August 3, 2023.

Between the court's acceptance of Farris's guilty plea and the August 2023 sentencing, a new amendment to RCW 9.94A.525(1)(b), part of the Sentencing Reform Act (SRA), went into effect. See LAWS OF 2023, ch. 415 (H.B. 1324). Effective July 23, 2023, the amendment removes the majority of prior juvenile convictions from the calculation of offender scores. In his sentencing memorandum and at his sentencing hearing, Farris argued the amendment should apply prospectively to reduce his offender score and standard range sentence. The trial court disagreed and counted the juvenile offenses for an offender score of seven with a standard range of 43-57 months. The court sentenced Farris to the originally agreed recommendation of 43 months of incarceration, the low end of the standard range.

Farris appeals.

DISCUSSION

Farris challenges his sentence, arguing the court wrongly included his juvenile convictions in his offender score calculation. According to Farris, the

plain language of RCW 9.94A.525(1) mandates that the court calculate the offender score by counting prior convictions as of the date of sentencing and, therefore, the court has no authority to include most juvenile convictions in sentencings occurring after July 23, 2023. We disagree.

Farris's claim requires us to engage in statutory construction, which is a question of law reviewed de novo. State v. Wentz, 149 Wn.2d 342, 346, 68 P.3d 282 (2003). We "give effect to the intent of the legislature, and where the language of a statute is clear, legislative intent is derived from the language of the statute alone." Id. We discern the plain meaning of a statutory provision from the ordinary meaning of the language at issue, the context of the statute, related provisions, and the statutory scheme as a whole. State v. Engel, 166 Wn.2d 572, 578, 210 P.3d 1007 (2009). If unambiguous, a statute's plain language "provides the beginning and the end of the analysis." State v. Jenks, 197 Wn.2d 708, 714, 487 P.3d 482 (2021). A statute is unambiguous when not susceptible to more than one interpretation. Id.

RCW 9.9A.525 establishes the guidelines for calculation of the offender score. For the purposes of the offender score, "[a] prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed." RCW 9.9A.525(1)(a). Farris reads this to mandate that the version of this statute that applies to his sentence is the version in effect on the date of sentencing, rather than the date of the offense—i.e., the amended version of RCW 9.9A.525(1)(b) that excludes his prior juvenile adjudications from the calculation of his offender score.

Farris is incorrect. RCW 9.9A.525(1) defines "prior conviction" for the purposes of calculating the offender score. This definition pertains to which convictions factor into the offender score, not what law applies to the calculation. RCW 9.94A.345 governs which version of the SRA applies to determine a sentence and explicitly states: "Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed." As our Supreme Court held in Jenks, "RCW 9.94A.345 clearly commands that sentences imposed under 'this chapter'—the SRA—be imposed under the law in effect at the time of the crime." 197 Wn.2d at 715. Thus, RCW 9.94A.345 requires Farris to be sentenced under the statute in effect when he committed the crime in January 2023.

In addition to the unambiguous language of RCW 9.94A.345, the savings clause statute prevents application of the amended sentencing statute to Farris's sentencing. Jenks, 197 Wn.2d at 719; State v. Troutman, 30 Wn. App. 2d 592, 594, 546 P.3d 458 (2024). The savings clause states:

> Whenever any criminal or penal statute shall be amended or repealed, all offenses committed or penalties or forfeitures incurred while it was in force shall be punished or enforced as if it were in force, notwithstanding such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or repealing act, and every such amendatory or repealing statute shall be so construed as to save all criminal and penal proceedings, and proceedings to recover forfeitures, pending at the time of its enactment, unless a contrary intention is expressly declared therein.

RCW 10.01.040. This savings clause is read into every repealing or amending penal statute. Jenks, 197 Wn.2d at 719; State v. Ross, 152 Wn.2d 220, 237, 95 P.3d 1225 (2004); RCW 10.01.040. Under the terms of this statute, the

sentencing court was required to sentence Farris under the law in effect at the time he committed the offense unless a contrary intent was indicated by the legislature. The legislature is not required to explicitly state its intent for an amendment to apply retroactively to pending prosecutions. Jenks, 197 Wn.2d at 720. Intent need only be expressed in words that "fairly convey that intention." Ross, 152 Wn.2d at 238 (quoting State v. Kane, 101 Wn. App. 607, 612, 5 P.3d 741 (2000)).

Farris argues the statutory amendment's statement of intent "uses strong words that convey the legislature's intent to eliminate sentencing standards that automatically increase a person's punishment based on their actions as a child." The intent section states:

> The legislature intends to:
> (1) Give real effect to the juvenile justice system's express goals of rehabilitation and reintegration;
> (2) Bring Washington in line with the majority of states, which do not consider prior juvenile offenses in sentencing range calculations for adults;
> (3) Recognize the expansive body of scientific research on brain development, which shows that adolescent's perception, judgment, and decision making differs significantly from that of adults;
> (4) Facilitate the provision of due process by granting the procedural protections of a criminal proceeding in any adjudication which may be used to determine the severity of a criminal sentence; and
> (5) Recognize how grave disproportionality within the juvenile legal system may subsequently impact sentencing ranges in adult court.

LAWS OF 2023, ch. 415, § 1. But as we observed in Troutman, the plain language of this section "says nothing about retroactivity." 30 Wn. App. 2d at 599. Therefore, the savings clause applies to Farris's sentence.[1]

[1] Farris also claims the savings clause does not change his analysis because "the offender score statute required the court to calculate the offender score at the time of sentencing, even

Finally, Farris contends the statutory amendment applies prospectively to his pending case because it is remedial. Remedial statutes relate to practice, procedure, or remedies, and do not affect a substantive right. State v. Pillatos, 159 Wn.2d 459, 473, 150 P.3d 1130 (2007). However, our Supreme Court has "repeatedly made clear that changes to criminal punishments are substantive, not procedural." Jenks, 197 Wn.2d at 721 (citing State v. Smith, 144 Wn.2d 665, 674, 30 P.3d 1245 (2001) (changing the meaning of the term "criminal history" in the SRA was a substantive change)). Moreover, "even a remedial amendment will be applied prospectively only if it contradicts a previous interpretation of the amended statute by this court," Pillatos, 159 Wn.2d at 473, and Farris makes no argument to satisfy this requirement.

The law that governs Farris's sentence is the law in effect at the time he committed his offense. The statutory amendment restricting inclusion of juvenile offenses in the offender score was enacted after Farris committed his offense and does not govern the calculation of his offender score. At the time of his sentencing, Farris had two juvenile and five adult felony prior convictions, amounting to an offender score of seven. The trial court properly calculated the offender score for purposes of sentencing Farris.

Affirmed.

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before the legislature amended it" such that "[t]he amendment did not change the date of calculation; it only removed certain offenses from that calculation." Farris is correct that the amendment does not change the requirement in RCW 9.94A.525(1) that the offender score is calculated as of the date of sentencing. Farris also argues that HB 1324 should apply to his sentence because it is pending on appeal, and the "triggering event" for the offender score statute is sentencing. However, as discussed above, RCW 9.94A.345 of the SRA and the savings clause, RCW 10.01.040, together unambiguously mandate that the date of the offense determines the law that the sentencing court must apply at the time of sentencing. Therefore, Farris's arguments are unavailing.

Chung, J.

WE CONCUR:

Díaz, J.

Dwyer, J.

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