
HOUSE BILL 1289

State of Washington

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By Representatives Dickerson, Goodman, Pedersen, Fitzgibbon, Hunt, Carlyle, Kenney, Appleton, Eddy, Moeller, Kagi, and Roberts

Read first time 01/18/11. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to juvenile court jurisdiction over offenders;
2 amending RCW 13.40.110; and reenacting and amending RCW 13.04.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.04.030 and 2009 c 526 s 1 and 2009 c 454 s 1 are
5 each reenacted and amended to read as follows:

6 (1) Except as provided in this section, the juvenile courts in this
7 state shall have exclusive original jurisdiction over all proceedings:

8 (a) Under the interstate compact on placement of children as
9 provided in chapter 26.34 RCW;

10 (b) Relating to children alleged or found to be dependent as
11 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

12 (c) Relating to the termination of a parent and child relationship
13 as provided in RCW 13.34.180 through 13.34.210;

14 (d) To approve or disapprove out-of-home placement as provided in
15 RCW 13.32A.170;

16 (e) Relating to juveniles alleged or found to have committed
17 offenses, traffic or civil infractions, or violations as provided in
18 RCW 13.40.020 through 13.40.230, unless:

1 (i) The juvenile court transfers jurisdiction of a particular
2 juvenile to adult criminal court pursuant to RCW 13.40.110;

3 (ii) The statute of limitations applicable to adult prosecution for
4 the offense, traffic or civil infraction, or violation has expired;

5 (iii) The alleged offense or infraction is a traffic, fish,
6 boating, or game offense, or traffic or civil infraction committed by
7 a juvenile sixteen years of age or older and would, if committed by an
8 adult, be tried or heard in a court of limited jurisdiction, in which
9 instance the appropriate court of limited jurisdiction shall have
10 jurisdiction over the alleged offense or infraction, and no guardian ad
11 litem is required in any such proceeding due to the juvenile's age. If
12 such an alleged offense or infraction and an alleged offense or
13 infraction subject to juvenile court jurisdiction arise out of the same
14 event or incident, the juvenile court may have jurisdiction of both
15 matters. The jurisdiction under this subsection does not constitute
16 "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of
17 this subsection. Courts of limited jurisdiction which confine
18 juveniles for an alleged offense or infraction may place juveniles in
19 juvenile detention facilities under an agreement with the officials
20 responsible for the administration of the juvenile detention facility
21 in RCW 13.04.035 and 13.20.060; or

22 (iv) The alleged offense is a traffic or civil infraction, a
23 violation of compulsory school attendance provisions under chapter
24 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
25 assumed concurrent jurisdiction over those offenses as provided in RCW
26 13.04.0301(~~or~~

27 ~~(v) The juvenile is sixteen or seventeen years old on the date the~~
28 ~~alleged offense is committed and the alleged offense is:~~

29 ~~(A) A serious violent offense as defined in RCW 9.94A.030;~~

30 ~~(B) A violent offense as defined in RCW 9.94A.030 and the juvenile~~
31 ~~has a criminal history consisting of: (I) One or more prior serious~~
32 ~~violent offenses; (II) two or more prior violent offenses; or (III)~~
33 ~~three or more of any combination of the following offenses: Any class~~
34 ~~A felony, any class B felony, vehicular assault, or manslaughter in the~~
35 ~~second degree, all of which must have been committed after the~~
36 ~~juvenile's thirteenth birthday and prosecuted separately;~~

37 ~~(C) Robbery in the first degree, rape of a child in the first~~
38 ~~degree, or drive by shooting, committed on or after July 1, 1997;~~

1 ~~(D) Burglary in the first degree committed on or after July 1,~~
2 ~~1997, and the juvenile has a criminal history consisting of one or more~~
3 ~~prior felony or misdemeanor offenses; or~~

4 ~~(E) Any violent offense as defined in RCW 9.94A.030 committed on or~~
5 ~~after July 1, 1997, and the juvenile is alleged to have been armed with~~
6 ~~a firearm.~~

7 ~~(I) In such a case the adult criminal court shall have exclusive~~
8 ~~original jurisdiction, except as provided in (e)(v)(E)(II) and (III) of~~
9 ~~this subsection.~~

10 ~~(II) The juvenile court shall have exclusive jurisdiction over the~~
11 ~~disposition of any remaining charges in any case in which the juvenile~~
12 ~~is found not guilty in the adult criminal court of the charge or~~
13 ~~charges for which he or she was transferred, or is convicted in the~~
14 ~~adult criminal court of a lesser included offense that is not also an~~
15 ~~offense listed in (e)(v) of this subsection. The juvenile court shall~~
16 ~~enter an order extending juvenile court jurisdiction if the juvenile~~
17 ~~has turned eighteen years of age during the adult criminal court~~
18 ~~proceedings pursuant to RCW 13.40.300. However, once the case is~~
19 ~~returned to juvenile court, the court may hold a decline hearing~~
20 ~~pursuant to RCW 13.40.110 to determine whether to retain the case in~~
21 ~~juvenile court for the purpose of disposition or return the case to~~
22 ~~adult criminal court for sentencing.~~

23 ~~(III) The prosecutor and respondent may agree to juvenile court~~
24 ~~jurisdiction and waive application of exclusive adult criminal~~
25 ~~jurisdiction in (e)(v)(A) through (E) of this subsection and remove the~~
26 ~~proceeding back to juvenile court with the court's approval.~~

27 ~~If the juvenile challenges the state's determination of the~~
28 ~~juvenile's criminal history under (e)(v) of this subsection, the state~~
29 ~~may establish the offender's criminal history by a preponderance of the~~
30 ~~evidence. If the criminal history consists of adjudications entered~~
31 ~~upon a plea of guilty, the state shall not bear a burden of~~
32 ~~establishing the knowing and voluntariness of the plea));~~

33 ~~(f) Under the interstate compact on juveniles as provided in~~
34 ~~chapter 13.24 RCW;~~

35 ~~(g) Relating to termination of a diversion agreement under RCW~~
36 ~~13.40.080, including a proceeding in which the divertee has attained~~
37 ~~eighteen years of age;~~

1 (h) Relating to court validation of a voluntary consent to an out-
2 of-home placement under chapter 13.34 RCW, by the parent or Indian
3 custodian of an Indian child, except if the parent or Indian custodian
4 and child are residents of or domiciled within the boundaries of a
5 federally recognized Indian reservation over which the tribe exercises
6 exclusive jurisdiction;

7 (i) Relating to petitions to compel disclosure of information filed
8 by the department of social and health services pursuant to RCW
9 74.13.042; and

10 (j) Relating to judicial determinations and permanency planning
11 hearings involving developmentally disabled children who have been
12 placed in out-of-home care pursuant to a voluntary placement agreement
13 between the child's parent, guardian, or legal custodian and the
14 department of social and health services.

15 (2) The family court shall have concurrent original jurisdiction
16 with the juvenile court over all proceedings under this section if the
17 superior court judges of a county authorize concurrent jurisdiction as
18 provided in RCW 26.12.010.

19 (3) The juvenile court shall have concurrent original jurisdiction
20 with the family court over child custody proceedings under chapter
21 26.10 RCW and parenting plans or residential schedules under chapters
22 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

23 (4) A juvenile subject to adult superior court jurisdiction under
24 subsection (1)(e)(i) through ~~((v))~~ (iv) of this section, who is
25 detained pending trial, may be detained in a detention facility as
26 defined in RCW 13.40.020 pending sentencing or a dismissal.

27 **Sec. 2.** RCW 13.40.110 and 2009 c 454 s 3 are each amended to read
28 as follows:

29 (1) Decline hearings.

30 (a) Discretionary decline hearing - The prosecutor, respondent, or
31 the court on its own motion may, before a hearing on the information on
32 its merits, file a motion requesting the court to transfer the
33 respondent for adult criminal prosecution and the matter shall be set
34 for a hearing on the question of declining jurisdiction.

35 ~~((2))~~ (b) Mandatory decline hearing - Unless waived by the court,
36 the parties, and their counsel, a decline hearing shall be held when:

1 ~~((a))~~ (i) The respondent is sixteen or seventeen years of age and
2 the information alleges a class A felony or an attempt, solicitation,
3 or conspiracy to commit a class A felony;

4 ~~((b))~~ (ii) The respondent is seventeen years of age and the
5 information alleges assault in the second degree, extortion in the
6 first degree, indecent liberties, child molestation in the second
7 degree, kidnapping in the second degree, or robbery in the second
8 degree; or

9 ~~((c))~~ (iii) The information alleges an escape by the respondent
10 and the respondent is serving a minimum juvenile sentence to age
11 twenty-one.

12 ~~((3))~~ (2) The court after a decline hearing may order the case
13 transferred for adult criminal prosecution upon a finding that the
14 declination would be in the best interest of the juvenile or the
15 public. The court shall consider the relevant reports, facts,
16 opinions, and arguments presented by the parties and their counsel.

17 ~~((4))~~ (3) When the respondent is transferred for criminal
18 prosecution or retained for prosecution in juvenile court, the court
19 shall set forth in writing its finding which shall be supported by
20 relevant facts and opinions produced at the hearing.

21 (4) If a case has been transferred from juvenile court to adult
22 court for criminal prosecution, at any time prior to sentencing the
23 defendant or the prosecutor, for good cause shown, may request a
24 hearing or the adult court on its own motion may set a hearing to
25 determine whether it would be in the best interest of the juvenile or
26 the public to transfer the case to juvenile court. After a hearing on
27 whether the case should be transferred to juvenile court the adult
28 court shall set forth in writing its finding, which shall be supported
29 by relevant facts and opinions produced at the hearing.

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