

# SENATE BILL REPORT

## SB 6365

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As of January 29, 2016

**Title:** An act relating to establishing a lower age limit for discretionary decline hearings in juvenile court.

**Brief Description:** Establishing a lower age limit for discretionary decline hearings in juvenile court.

**Sponsors:** Senators Darneille, Miloscia and Chase.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 1/25/16.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Staff:** Lindsay Erickson (786-7465)

**Background:** Joint Legislative Task Force on Juvenile Sentencing Reform. In June of 2012, the United States Supreme Court held, in *Miller v. Alabama*, that the Eighth Amendment ban on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile homicide offenders. In 2013 the law was amended to comply with *Miller v. Alabama*. Second Substitute Senate Bill 5064 created a new sentencing scheme for juvenile offenders convicted of aggravated murder and authorized the possibility of parole for juvenile offenders with sentences longer than 20 years. The bill also created the Joint Legislative Task Force on Juvenile Sentencing Reform.

The Task Force was required to undertake a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile justice systems and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources. The Task Force submitted its findings and recommendations to the Governor and the Legislature in December 2014.

Juvenile and Adult Court Jurisdiction. In Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under the age of 18 who are alleged to have committed a crime. However, there are several exceptions, and state law requires youth to be tried in adult courts, either superior courts or courts of limited jurisdiction, in certain circumstances. There are generally five scenarios where persons under the age of 18 are tried in adult courts.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

*Discretionary Decline Hearing Process.* The juvenile court has the discretion to hold a hearing on whether to decline juvenile court jurisdiction on its own motion or when a party files a motion requesting the court transfer the juvenile to adult criminal court.

*Mandatory Decline Hearing Process.* The juvenile court must hold a decline hearing in the following circumstances, unless waived by the court and all parties:

- the juvenile is age 16 or 17 and is alleged to have committed a class A felony or attempt, solicitation, or conspiracy to commit a class A felony;
- the juvenile is age 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
- the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.

*Exclusive Adult Court Jurisdiction.* The adult criminal court will have exclusive jurisdiction over a juvenile when the juvenile is 16 or 17 on the date of the alleged offense and the alleged offense is the following:

- a serious violent offense;
- a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense; two or more prior violent offenses; or three or more of any combination of a class A felony, class B felony, vehicular assault, or manslaughter in the 2nd degree;
- robbery in the 1st degree, rape of a child in the 1st degree, or drive-by shooting;
- burglary in the 1st degree and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
- any violent offense and the juvenile is alleged to have been armed with a firearm.

If the juvenile is found not guilty of the charge for which the juvenile was transferred or is convicted of a lesser included offense, the juvenile court will have jurisdiction of the disposition of the remaining charges in the case. The prosecutor and the respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction and remove the proceeding back to juvenile court with the court's approval.

*Once an Adult, Always an Adult.* Once a juvenile is declined to adult court jurisdiction, the juvenile will be subject to exclusive adult jurisdiction for all future actions. However, if the juvenile is found not guilty or acquitted of the crime for which the juvenile was transferred, this provision will not apply.

*Certain Crimes and Infractions in Courts of Limited Jurisdiction.* If a juvenile is age 16 or 17 and the juvenile is charged with a traffic, fish, boating, or game offense, or an infraction, then the case is referred to a court of limited jurisdiction – district or municipal court.

**Summary of Bill:** Discretionary decline hearings are restricted to juveniles age 14 and older.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We are learning more about brain science and the effect that transfer to adult court has on kids. The transfer does not lead to deterrence or reduction in recidivism. It is unreasonable for kids who are 11 or 12 years old to be treated as adults, particularly under the "once an adult, always an adult" law. This bill does not go far enough, because age 14 is still too young. But the bill is a good start. Juveniles do not have the mental capacity to go through the adult court process and they should be treated differently.

CON: Prosecutors see a potential situation in which the court may want to maintain jurisdiction over an offender who is under 14 beyond the age of 21, which is the current juvenile court limit on jurisdiction. This bill would not allow that. In most cases, equity dictates that these cases should stay in juvenile court, but it doesn't always happen that way.

**Persons Testifying:** PRO: Nick Allen, Columbia Legal Services; Bob Cooper, WA Defender Assoc. & WA Assoc. of Criminal Defense Lawyers.

CON: Tom McBride, WA Assoc. of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** No one.