

SSB 6620 - S AMD 917

By Senator Baumgartner

1 On page 28, after line 10, insert the following:

2 **"Part VII - Juvenile Justice Provisions**

3 **Sec. 24.** RCW 13.04.030 and 2018 c ... (E2SSB 6160) s 1 are each
4 amended to read as follows:

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

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

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

24 (iii) The alleged offense or infraction is a traffic, fish,
25 boating, or game offense, or traffic or civil infraction committed by
26 a juvenile sixteen years of age or older and would, if committed by
27 an adult, be tried or heard in a court of limited jurisdiction, in
28 which instance the appropriate court of limited jurisdiction shall
29 have jurisdiction over the alleged offense or infraction, and no
30 guardian ad litem is required in any such proceeding due to the
31 juvenile's age. If such an alleged offense or infraction and an

1 alleged offense or infraction subject to juvenile court jurisdiction
2 arise out of the same event or incident, the juvenile court may have
3 jurisdiction of both matters. The jurisdiction under this subsection
4 does not constitute "transfer" or a "decline" for purposes of RCW
5 13.40.110(1) or (2) or (e)(i) of this subsection. Courts of limited
6 jurisdiction which confine juveniles for an alleged offense or
7 infraction may place juveniles in juvenile detention facilities under
8 an agreement with the officials responsible for the administration of
9 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

10 (iv) The alleged offense is a traffic or civil infraction, a
11 violation of compulsory school attendance provisions under chapter
12 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
13 has assumed concurrent jurisdiction over those offenses as provided
14 in RCW 13.04.0301; or

15 (v) The juvenile is sixteen or seventeen years old on the date
16 the alleged offense is committed and the alleged offense is:

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

18 (B) A violent offense as defined in RCW 9.94A.030 and the
19 juvenile has a criminal history consisting of: One or more prior
20 serious violent offenses; two or more prior violent offenses; or
21 three or more of any combination of the following offenses: Any class
22 A felony, any class B felony, vehicular assault, or manslaughter in
23 the second degree, all of which must have been committed after the
24 juvenile's thirteenth birthday and prosecuted separately; ((~~or~~))

25 (C) Rape of a child in the first degree; or

26 (D) Any violent offense as defined in RCW 9.94A.030 where the
27 juvenile is alleged to have been armed with a firearm and the alleged
28 offense is committed on public or private elementary or secondary
29 school premises, school-provided transportation, or areas of
30 facilities while being used exclusively by public or private schools.

31 (I) In such a case the adult criminal court shall have exclusive
32 original jurisdiction, except as provided in (e)(v)((~~C~~))(D)(II) and
33 (III) of this subsection.

34 (II) The juvenile court shall have exclusive jurisdiction over
35 the disposition of any remaining charges in any case in which the
36 juvenile is found not guilty in the adult criminal court of the
37 charge or charges for which he or she was transferred, or is
38 convicted in the adult criminal court of a lesser included offense
39 that is not also an offense listed in (e)(v) of this subsection. The
40 juvenile court shall maintain residual juvenile court jurisdiction up

1 to age twenty-five if the juvenile has turned eighteen years of age
2 during the adult criminal court proceedings but only for the purpose
3 of returning a case to juvenile court for disposition pursuant to RCW
4 13.40.300(3)(d). However, once the case is returned to juvenile
5 court, the court may hold a decline hearing pursuant to RCW 13.40.110
6 to determine whether to retain the case in juvenile court for the
7 purpose of disposition or return the case to adult criminal court for
8 sentencing.

9 (III) The prosecutor and respondent may agree to juvenile court
10 jurisdiction and waive application of exclusive adult criminal
11 jurisdiction in (e)(v)(A) through (~~(C)~~) (D) of this subsection and
12 remove the proceeding back to juvenile court with the court's
13 approval.

14 If the juvenile challenges the state's determination of the
15 juvenile's criminal history under (e)(v) of this subsection, the
16 state may establish the offender's criminal history by a
17 preponderance of the evidence. If the criminal history consists of
18 adjudications entered upon a plea of guilty, the state shall not bear
19 a burden of establishing the knowing and voluntariness of the plea;

20 (f) Under the interstate compact on juveniles as provided in
21 chapter 13.24 RCW;

22 (g) Relating to termination of a diversion agreement under RCW
23 13.40.080, including a proceeding in which the divertee has attained
24 eighteen years of age;

25 (h) Relating to court validation of a voluntary consent to an
26 out-of-home placement under chapter 13.34 RCW, by the parent or
27 Indian custodian of an Indian child, except if the parent or Indian
28 custodian and child are residents of or domiciled within the
29 boundaries of a federally recognized Indian reservation over which
30 the tribe exercises exclusive jurisdiction;

31 (i) Relating to petitions to compel disclosure of information
32 filed by the department of social and health services pursuant to RCW
33 74.13.042; and

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

39 (2) The family court shall have concurrent original jurisdiction
40 with the juvenile court over all proceedings under this section if

1 the superior court judges of a county authorize concurrent
2 jurisdiction as provided in RCW 26.12.010.

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

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

11 **Sec. 25.** RCW 13.04.030 and 2018 c ... (E2SSB 6160) s 2 are each
12 amended to read as follows:

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

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

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

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

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

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

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

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

32 (iii) The alleged offense or infraction is a traffic, fish,
33 boating, or game offense, or traffic or civil infraction committed by
34 a juvenile sixteen years of age or older and would, if committed by
35 an adult, be tried or heard in a court of limited jurisdiction, in
36 which instance the appropriate court of limited jurisdiction shall
37 have jurisdiction over the alleged offense or infraction, and no
38 guardian ad litem is required in any such proceeding due to the
39 juvenile's age. If such an alleged offense or infraction and an

1 alleged offense or infraction subject to juvenile court jurisdiction
2 arise out of the same event or incident, the juvenile court may have
3 jurisdiction of both matters. The jurisdiction under this subsection
4 does not constitute "transfer" or a "decline" for purposes of RCW
5 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited
6 jurisdiction which confine juveniles for an alleged offense or
7 infraction may place juveniles in juvenile detention facilities under
8 an agreement with the officials responsible for the administration of
9 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

10 (iv) The alleged offense is a traffic or civil infraction, a
11 violation of compulsory school attendance provisions under chapter
12 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
13 has assumed concurrent jurisdiction over those offenses as provided
14 in RCW 13.04.0301; or

15 (v) The juvenile is sixteen or seventeen years old on the date
16 the alleged offense is committed and the alleged offense is:

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

18 (B) A violent offense as defined in RCW 9.94A.030 and the
19 juvenile has a criminal history consisting of: One or more prior
20 serious violent offenses; two or more prior violent offenses; or
21 three or more of any combination of the following offenses: Any class
22 A felony, any class B felony, vehicular assault, or manslaughter in
23 the second degree, all of which must have been committed after the
24 juvenile's thirteenth birthday and prosecuted separately; ((~~or~~))

25 (C) Rape of a child in the first degree; or

26 (D) Any violent offense as defined in RCW 9.94A.030 where the
27 juvenile is alleged to have been armed with a firearm and the alleged
28 offense is committed on public or private elementary or secondary
29 school premises, school-provided transportation, or areas of
30 facilities while being used exclusively by public or private schools.

31 (I) In such a case the adult criminal court shall have exclusive
32 original jurisdiction, except as provided in (e)(v)((~~C~~))(D)(II) and
33 (III) of this subsection.

34 (II) The juvenile court shall have exclusive jurisdiction over
35 the disposition of any remaining charges in any case in which the
36 juvenile is found not guilty in the adult criminal court of the
37 charge or charges for which he or she was transferred, or is
38 convicted in the adult criminal court of a lesser included offense
39 that is not also an offense listed in (e)(v) of this subsection. The
40 juvenile court shall maintain residual juvenile court jurisdiction up

1 to age twenty-five if the juvenile has turned eighteen years of age
2 during the adult criminal court proceedings but only for the purpose
3 of returning a case to juvenile court for disposition pursuant to RCW
4 13.40.300(3)(d). However, once the case is returned to juvenile
5 court, the court may hold a decline hearing pursuant to RCW 13.40.110
6 to determine whether to retain the case in juvenile court for the
7 purpose of disposition or return the case to adult criminal court for
8 sentencing.

9 (III) The prosecutor and respondent may agree to juvenile court
10 jurisdiction and waive application of exclusive adult criminal
11 jurisdiction in (e)(v)(A) through (~~(C)~~) (D) of this subsection and
12 remove the proceeding back to juvenile court with the court's
13 approval.

14 If the juvenile challenges the state's determination of the
15 juvenile's criminal history under (e)(v) of this subsection, the
16 state may establish the offender's criminal history by a
17 preponderance of the evidence. If the criminal history consists of
18 adjudications entered upon a plea of guilty, the state shall not bear
19 a burden of establishing the knowing and voluntariness of the plea;

20 (f) Under the interstate compact on juveniles as provided in
21 chapter 13.24 RCW;

22 (g) Relating to termination of a diversion agreement under RCW
23 13.40.080, including a proceeding in which the divertee has attained
24 eighteen years of age;

25 (h) Relating to court validation of a voluntary consent to an
26 out-of-home placement under chapter 13.34 RCW, by the parent or
27 Indian custodian of an Indian child, except if the parent or Indian
28 custodian and child are residents of or domiciled within the
29 boundaries of a federally recognized Indian reservation over which
30 the tribe exercises exclusive jurisdiction;

31 (i) Relating to petitions to compel disclosure of information
32 filed by the department of social and health services pursuant to RCW
33 74.13.042; and

34 (j) Relating to judicial determinations and permanency planning
35 hearings involving developmentally disabled children who have been
36 placed in out-of-home care pursuant to a voluntary placement
37 agreement between the child's parent, guardian, or legal custodian
38 and the department of social and health services and the department
39 of children, youth, and families.

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

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

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

13 NEW SECTION. **Sec. 26.** Section 24 of this act expires July 1,
14 2019.

15 NEW SECTION. **Sec. 27.** Section 25 of this act takes effect July
16 1, 2019.

17 NEW SECTION. **Sec. 28.** Sections 24 and 25 of this act take
18 effect only if chapter . . . (Engrossed Second Substitute Senate Bill
19 No. 6160, as amended by the House (H-5044.1/18)), Laws of 2018 is
20 enacted by the effective date of this section."

21 Renumber the remaining section consecutively and correct any
22 internal references accordingly.

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23 On page 1, line 10 of the title, after "rifles;" insert "adding
24 violent offenses committed by juveniles aged 16 or 17 when alleged
25 with a firearm to the exclusive original jurisdiction of adult
26 court;" and on line 12, after "9.41.124," strike "and 9.41.240" and
27 insert "9.41.240, 13.04.030, and 13.04.030" and on line 18, after
28 "penalties;" insert "providing an effective date; providing a
29 contingent effective date;" and after "providing" strike "an
30 expiration date" and insert "expiration dates"

EFFECT: Requires a violent offense where a juvenile age 16 or 17 is alleged to have been armed with a firearm to be filed in adult court when the alleged offense is committed on the premises of a primary or secondary school, school-provided transportation, or facilities being used by a school. This amendment is constructed to merge with E2SSB 6160 if it passes the Legislature with provisions that remove violent offenses where a juvenile age 16 or 17 is alleged to have been armed with a firearm from the original jurisdiction of adult court.

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