

SENATE BILL REPORT

E2SHB 1021

As of March 23, 1995

Title: An act relating to juveniles.

Brief Description: Granting to adult court jurisdiction over juveniles who use a firearm while committing a violent offense.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Delvin, Hickel, Robertson, Smith, Padden, Sherstad, Dyer, Skinner, Kremen, Hargrove, Horn, Schoesler, Buck, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Chandler, Backlund, Crouse, Cairnes, Elliot, Reams, Pennington, Mastin, Carrell, K. Schmidt, Chappell, Basich, Grant, Sehlin, Honeyford, Van Luven, Ballasiotes, Pelesky, Blanton, Hankins, Lambert, D. Schmidt, Mulliken, McMorris, Clements, Campbell, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens and Casada).

Brief History: Passed House 3/7/95, 79-16.

Committee Activity: Law & Justice: 3/27/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lidia Mori (786-7755)

Background: Jurisdiction of the Juvenile Court. In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with an offense, traffic infraction, or violation.

A few exceptions apply to the general rule:

1. Juveniles will automatically be prosecuted as adults in adult criminal court when the juvenile is 16 or 17 years old and the alleged offense is a serious violent offense, or, a violent offense and the offender has a criminal history consisting of: (a) one or more prior serious violent offenses; (b) two or more prior violent offenses, or; (c) three or more of any combination of the following: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.
2. The prosecutor, respondent, or the court on its own motion, may request the juvenile court to transfer a juvenile to adult criminal court for prosecution pursuant to a procedure commonly referred to as a "decline hearing." A juvenile does not have a constitutional right to be tried as a juvenile. However, the state bears the burden of proving that prosecuting the juvenile as an adult is in the juvenile's or the public's best interest.

Unless waived by the court, the parties, and their counsel, the court must hold a decline hearing under the following circumstances: (1) The juvenile is 15, 16 or 17 and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a

class A felony; (2) the juvenile is 17 and the information alleges second degree assault, first degree extortion, indecent liberties, second-degree child molestation, second-degree kidnapping, or second-degree robbery.

Limitations on Juvenile Court Jurisdiction. If the juvenile court transfers a juvenile to adult superior court after a decline hearing on one offense, the juvenile will be treated as an adult for all future offenses, even if the juvenile commits future offenses while the juvenile is still under age 18.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

Meaning of "Armed with a Firearm". The phrase "armed with a deadly weapon" has a specific meaning under case law. It means that a deadly weapon is easily accessible and readily available for use, for offensive or defensive purposes. The prosecutor has discretion whether to file an allegation asking the trier of fact to enter a special finding that the accused was armed with a deadly weapon during the commission of the crime. A firearm is a deadly weapon.

Meaning of "Violent Offense". Under Washington law, violent offenses are defined as: Class A felonies; attempted Class A felonies; first or second degree manslaughter; indecent liberties if committed by force; second degree kidnapping; second degree arson; second degree assault; second degree assault of a child; first degree extortion; second degree robbery; vehicular assault; vehicular homicide involving alcohol, drugs or reckless driving; and comparable federal or out-of-state convictions.

Illegal Possession of a Firearm. As a general rule, it is a crime for a person under 18 years of age to possess a firearm.

Under the following circumstances a juvenile can possess a firearm: while attending safety courses; while practicing in the use of a firearm or target shooting at limited locations; while participating in organized firearms competitions or in performances by certain organized groups; while hunting or trapping under a valid license; for juveniles over 13 years of age who have been issued a hunter safety certificate, while possessing a firearm other than a pistol at limited locations; while under adult supervision at limited locations; while traveling with an unloaded firearm to and from the locations and activities described above; while on real property that is under a relative's control if the relative has given the juvenile permission to possess a firearm; while at his or her residence, if the parent has given the juvenile permission to possess a firearm, for purposes of self-defense, defense of others, or protection of property; or while on duty as a member of the armed forces, National Guard or organized reserves.

Summary of Bill: Juveniles who are 16 or 17 years old are automatically prosecuted as adults when the prosecutor alleges the juvenile committed a violent offense while armed with a firearm and the juvenile's possession of the firearm was illegal.

Juveniles who are 14 or 15 years old automatically receive a decline hearing in juvenile court when the prosecutor alleges the juvenile committed a violent offense while armed with a firearm and the juvenile's possession of the firearm was illegal.

When a juvenile's case is automatically transferred to adult court, whether under this substitute bill or current law, the juvenile remains subject to adult court jurisdiction for future offenses as well, whether the offenses are committed as a juvenile or an adult. This parallels the current provisions for decline proceedings. Also, the adult court has jurisdiction over any other offenses that the juvenile committed during the same incident that led to the automatic transfer to adult court. Parallel changes are made to the definitional sections of the Juvenile Justice Act and the Sentencing Reform Act. The bill applies to offenses committed on or after the effective date of this act.

Appropriation: None.

Fiscal Note: Available.

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