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**SUBSTITUTE SENATE BILL 5479**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senator Hargrove; by request of Sentencing Guidelines Commission)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to the jurisdiction of adult and juvenile courts to  
2 proceedings in which juveniles are charged with crimes; amending RCW  
3 13.40.110; and reenacting and amending RCW 13.04.030.

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

5 **Sec. 1.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are  
6 each reenacted and amended to read as follows:

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

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

11 (b) Relating to children alleged or found to be dependent as  
12 provided in chapter 26.44 RCW and in RCW 13.34.030 through  
13 ((13.34.170)) 13.34.161;

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

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

18 (e) Relating to juveniles alleged or found to have committed

1 offenses, traffic or civil infractions, or violations as provided in  
2 RCW 13.40.020 through 13.40.230, unless:

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

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

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

25 (iv) The alleged offense is a traffic or civil infraction, a  
26 violation of compulsory school attendance provisions under chapter  
27 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has  
28 assumed concurrent jurisdiction over those offenses as provided in RCW  
29 13.04.0301; or

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

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

33 (B) A violent offense as defined in RCW 9.94A.030 and the juvenile  
34 has a criminal history consisting of: (I) One or more prior serious  
35 violent offenses; (II) two or more prior violent offenses; or (III)  
36 three or more of any combination of the following offenses: Any class  
37 A felony, any class B felony, vehicular assault, or manslaughter in the

1 second degree, all of which must have been committed after the  
2 juvenile's thirteenth birthday and prosecuted separately;

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

5 (D) Burglary in the first degree committed on or after July 1,  
6 1997, and the juvenile has a criminal history consisting of one or more  
7 prior felony or misdemeanor offenses; or

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

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

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

27 (III) The prosecutor and respondent may agree to juvenile court  
28 jurisdiction and waive application of exclusive adult criminal  
29 jurisdiction in (e)(v)(A) through (E) of this subsection and remove the  
30 proceeding back to juvenile court with the court's approval. In  
31 deciding whether or not to approve the motion to waive exclusive adult  
32 jurisdiction, the court shall only consider the facts of the alleged  
33 offense as they relate to: The seriousness of the alleged offense and  
34 the extent to which the juvenile was involved; whether the alleged  
35 offense was committed in an aggressive, violent, premeditated or  
36 willful manner; and whether the alleged offense is against persons or  
37 property, greater weight being given to offenses against persons,  
38 especially if personal injury resulted from the offense.

1        If the juvenile challenges the state's determination of the  
2 juvenile's criminal history under (e)(v) of this subsection, the state  
3 may establish the offender's criminal history by a preponderance of the  
4 evidence. If the criminal history consists of adjudications entered  
5 upon a plea of guilty, the state shall not bear a burden of  
6 establishing the knowing and voluntariness of the plea;

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

9        (g) Relating to termination of a diversion agreement under RCW  
10 13.40.080, including a proceeding in which the divertee has attained  
11 eighteen years of age;

12        (h) Relating to court validation of a voluntary consent to an out-  
13 of-home placement under chapter 13.34 RCW, by the parent or Indian  
14 custodian of an Indian child, except if the parent or Indian custodian  
15 and child are residents of or domiciled within the boundaries of a  
16 federally recognized Indian reservation over which the tribe exercises  
17 exclusive jurisdiction;

18        (i) Relating to petitions to compel disclosure of information filed  
19 by the department of social and health services pursuant to RCW  
20 74.13.042; and

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

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

30        (3) The juvenile court shall have concurrent original jurisdiction  
31 with the family court over child custody proceedings under chapter  
32 26.10 RCW as provided for in RCW 13.34.155.

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

1       **Sec. 2.** RCW 13.40.110 and 1997 c 338 s 20 are each amended to read  
2 as follows:

3       (1) Discretionary decline hearing - The prosecutor, respondent, or  
4 the court on its own motion may, before a hearing on the information on  
5 its merits, file a motion requesting the court to transfer the  
6 respondent for adult criminal prosecution and the matter shall be set  
7 for a hearing on the question of declining jurisdiction.

8       (2) Mandatory decline hearing - Unless waived by the court, the  
9 parties, and their counsel, a decline hearing shall be held when:

10       (a) The respondent is (~~(fifteen)~~) sixteen(~~(7)~~) or seventeen years  
11 of age and the information alleges a class A felony or an attempt,  
12 solicitation, or conspiracy to commit a class A felony;

13       (b) The respondent is seventeen years of age and the information  
14 alleges assault in the second degree, extortion in the first degree,  
15 indecent liberties, child molestation in the second degree, kidnapping  
16 in the second degree, or robbery in the second degree; or

17       (c) The information alleges an escape by the respondent and the  
18 respondent is serving a minimum juvenile sentence to age twenty-one.

19       (~~(+2)~~) (3) The court after a decline hearing may order the case  
20 transferred for adult criminal prosecution upon a finding that the  
21 declination would be in the best interest of the juvenile or the  
22 public. The court shall consider the relevant reports, facts,  
23 opinions, and arguments presented by the parties and their counsel.

24       (~~(+3)~~) (4) When the respondent is transferred for criminal  
25 prosecution or retained for prosecution in juvenile court, the court  
26 shall set forth in writing its finding which shall be supported by  
27 relevant facts and opinions produced at the hearing.

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