

# SENATE BILL REPORT

## SB 6160

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As of January 20, 2018

**Title:** An act relating to revising conditions under which a person is subject to exclusive adult jurisdiction and extending juvenile court jurisdiction over serious cases to age twenty-five.

**Brief Description:** Revising conditions under which a person is subject to exclusive adult jurisdiction and extending juvenile court jurisdiction over serious cases to age twenty-five.

**Sponsors:** Senators Kuderer, Darneille and Palumbo.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/10/18.

**Brief Summary of Bill**

- Transfers certain offenses committed by youth aged 16 or 17 from the exclusive jurisdiction of adult court to the exclusive jurisdiction of juvenile court.
- Increases determinate sentencing ranges for juveniles aged 16 or 17 charged in juvenile court of these offenses.
- Expands the reach of the Option B juvenile suspended disposition alternative.
- Eliminates discretionary decline hearings for juveniles under 15 who are not charged with murder 1 or murder 2 and who are not charged with a serious violent offense.
- Extends the age limit for confinement in a juvenile rehabilitation institution from 21 to 25.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** Juvenile courts have exclusive original jurisdiction over criminal offenses, traffic or civil infractions, and violations committed by a youth under 18 unless an exception

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applies. One such exception, known as autodecline, applies to juveniles who are 16 or 17 on the date of the offense and are charged with:

- a serious violent offense;
- a violent offense and the juvenile has a criminal history consisting of a serious violent offense, two or more violent offenses, or three of a number of specified felony offenses;
- robbery 1;
- rape of a child 1;
- drive-by shooting;
- burglary 1 if the juvenile has a prior felony or misdemeanor offense; or
- any violent offense when the juvenile is alleged to have been armed with a firearm.

The Juvenile Justice Act (JJA) provides a sentencing grid which uses a comparison between a seriousness level—called current offense category—and the number of prior adjudications to produce a determinate sanction ranging from local sanctions to a maximum range of confinement from 180 weeks to until age 21. Local sanctions means zero to 30 days in custody, one year or less on probation, 150 hours of community restitution, or a fine of up to \$500.

A suspended disposition alternative, called Option B, exists for juvenile offenders who are not adjudicated for certain offenses. Imposition of Option B results in the suspension of the standard penalty range and imposition of local sanctions and an educational or treatment requirement.

A discretionary decline hearing is a hearing set at the motion of the prosecutor, the juvenile, or the court to request the transfer of the juvenile to adult court for adult criminal prosecution. A mandatory decline hearing must be held, unless waived by all parties and the court, if:

- the juvenile is 16 or 17 and charged with a class A felony or attempt, solicitation, or conspiracy to commit a class A felony;
- the juvenile is 17 years old and charged with assault 2, extortion 1, indecent liberties, child molestation 2, kidnaping 2, or robbery 2; or
- the juvenile is charged with escape and is serving a minimum sentence to age 21.

Serious violent felonies include murder 1, murder 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, and attempts, criminal solicitations, and criminal conspiracies to commit one of these felonies. Violent offenses include all of the above and any class A felony, any attempt, solicitation, or conspiracy to commit a class A felony, manslaughter 2, indecent liberties by forcible compulsion, kidnapping 2, arson 2, assault 2, assault of a child 2, extortion 1, robbery 2, and drive-by shooting.

The JJA includes certain minimum terms and sentencing enhancements when the court finds that the juvenile or an accomplice was armed with a firearm during an offense. The juvenile firearm enhancement is six months for a class A felony, four months for a class B felony, and two months for a class C felony. The court may impose a different disposition when this disposition would effectuate a manifest injustice. The firearm enhancement applicable in adult court is five years for a class A felony, three years for a class B felony, and 18 months for a class C felony.

A juvenile may not be committed to placement in a juvenile institution beyond the juvenile's 21st birthday. Parole may be ordered for a maximum of 12 months.

**Summary of Bill:** The following offenses are transferred from the exclusive original jurisdiction of adult court to the exclusive original jurisdiction of juvenile court when committed by a youth aged 16 or 17:

- robbery 1;
- rape of a child 1;
- drive by shooting;
- burglary 1 if juvenile has a prior felony or misdemeanor offense; and
- any violent offense when juvenile is alleged to have been armed with a firearm.

Sentencing ranges under the JJA are modified to create a new maximum sanction range of 260 weeks to until age 23, which is applied to juveniles aged 16 or 17 adjudicated for drive-by shooting, rape of a child 1, and robbery 1. The penalty range of burglary 1 is increased for all 16-17 year olds, with a resulting increase in standard range sanctions, e.g., from 15-36 weeks to 103-129 weeks for juveniles with one or fewer prior adjudications.

The range of juvenile offenders authorized to receive an Option B suspended disposition alternative is increased to include offenders adjudicated for the following offenses:

- robbery 2;
- residential burglary;
- burglary 2;
- intimidating a witness; and
- manufacturing, delivery, or possession with intent to deliver a controlled substance or amphetamine, except in circumstances involving infliction of bodily harm or possession of a deadly weapon.

Second or subsequent Option B diversions are disallowed, and certain juveniles adjudicated for manslaughter 2 are made ineligible.

A discretionary decline hearing may not be set unless the juvenile is at least 15 years of age and charged with a serious violent felony, or 14 years or younger and charged with murder 1 or murder 2. Mandatory decline hearings are eliminated, except for allegations of escape when a juvenile is serving a minimum sentence to age 21.

The firearm enhancement under the JJA is increased to 24 months for any juvenile aged 16 or 17 who is adjudicated for a violent offense

The age limit for placement in a juvenile institution is increased to 25 years of age for juveniles aged 16 or 17 who are convicted of robbery 1, drive by shooting, rape of a child 1, or who receive a 24-month firearm sentencing enhancement. For these juveniles, the length of parole is increased from 12 to 24 months, and may extend until the juvenile's 25th birthday.

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This idea has evolved significantly from last session. Having watched this system, there has to be a better way. One out of three individuals who come out of prison go right back in. The best time to rehabilitate someone is when they are young and the brain science tells us they are amenable to turning their lives around. Extending juvenile court jurisdiction gives the time to do effective rehabilitation. Everyone deserves a fair chance, and people can be redeemed. This is a big event. The historical concern of the prosecutors has been about 17 year olds committing serious crimes without accountability in the juvenile system. The autodecline crimes from 1997, drive a lot of racial disproportionality because they relate to firearm crimes and gang activity. The expansion of jurisdiction until age 25 is needed to maintain the support of prosecutors around the state. Juvenile courts support your efforts to connect services to juveniles in need. Juvenile courts are the right location to deliver those services. We support increasing judicial discretion by reducing autodecline. One size does not fit all, especially with youth. The sentencing changes only affect juveniles who are in the 1997 autodecline category. This bill also expands Option B diversions and restricts the scope of discretionary decline hearings.

OTHER: Most JR employees think there is value to extending jurisdiction to age 25 so that more can benefit from the positive programming. Do not forget the other infrastructure needs of JR to maintain safety. We support the rollback of the 1997 amendments to autodecline, which have driven many youth into the adult system and increased racial disparities. Please reconsider the sentencing increases, which would create a disparity compared to the adult system. We do not want to trade one harm for another by sharply increasing sentences. Eliminating autodecline allows courts to review the individual circumstances and make their own decisions after a full hearing. Decline to adult court would still be allowed in grave cases. Evidence shows that longer lengths of sentences for youth do not result in reduced recidivism. Despite the sentencing problems, this is a promising start.

**Persons Testifying:** PRO: Senator Kuderer, Prime Sponsor; Tom McBride, Washington Association of Prosecuting Attorneys, Washington Association of Juvenile Court Administrators; Todd Dowell, Washington Association of Prosecuting Attorneys; Stephen Warning, Superior Court Judges Association.

OTHER: Matt Zuvich, Washington Federation of State Employees; Nick Allen, Columbia Legal Services; Vanessa Hernandez, ACLU of Washington.

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