
HOUSE BILL 1876

State of Washington

65th Legislature

2017 Regular Session

By Representatives Frame, McDonald, Goodman, Kagi, Fitzgibbon, Ryu, Ortiz-Self, Doglio, Macri, and Ormsby

Read first time 02/01/17. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to the revision of exclusive adult jurisdiction;
2 amending RCW 13.40.110; and reenacting and amending RCW 13.04.030.

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

4 **Sec. 1.** RCW 13.04.030 and 2009 c 526 s 1 and 2009 c 454 s 1 are
5 each reenacted and amended to read as follows:

6 (1) Except as provided in this section, the juvenile courts in
7 this state shall have exclusive original jurisdiction over all
8 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 13.34.161;

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

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

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

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

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

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

21 (iv) The alleged offense is a traffic or civil infraction, a
22 violation of compulsory school attendance provisions under chapter
23 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
24 has assumed concurrent jurisdiction over those offenses as provided
25 in RCW 13.04.0301; or

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

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

29 (B) A violent offense as defined in RCW 9.94A.030 and the
30 juvenile has a criminal history consisting of: (I) One or more prior
31 serious violent offenses; (II) two or more prior violent offenses; or
32 (III) three or more of any combination of the following offenses: Any
33 class A felony, any class B felony, vehicular assault, or
34 manslaughter in the second degree, all of which must have been
35 committed after the juvenile's thirteenth birthday and prosecuted
36 separately(+

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

1 ~~(D) Burglary in the first degree committed on or after July 1,~~
2 ~~1997, and the juvenile has a criminal history consisting of one or~~
3 ~~more prior felony or misdemeanor offenses; or~~

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

7 (I) In such a case the adult criminal court shall have exclusive
8 original jurisdiction, except as provided in (e)(v)(~~(E)~~) (B)(II)
9 and (III) of this subsection.

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

23 (III) The prosecutor and respondent may agree to juvenile court
24 jurisdiction and waive application of exclusive adult criminal
25 jurisdiction in (e)(v)(A) (~~through (E)~~) and (B) of this subsection
26 and remove the proceeding back to juvenile court with the court's
27 approval.

28 If the juvenile challenges the state's determination of the
29 juvenile's criminal history under (e)(v) of this subsection, the
30 state may establish the offender's criminal history by a
31 preponderance of the evidence. If the criminal history consists of
32 adjudications entered upon a plea of guilty, the state shall not bear
33 a burden of establishing the knowing and voluntariness of the plea;

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

36 (g) Relating to termination of a diversion agreement under RCW
37 13.40.080, including a proceeding in which the divertee has attained
38 eighteen years of age;

39 (h) Relating to court validation of a voluntary consent to an
40 out-of-home placement under chapter 13.34 RCW, by the parent or

1 Indian custodian of an Indian child, except if the parent or Indian
2 custodian and child are residents of or domiciled within the
3 boundaries of a federally recognized Indian reservation over which
4 the tribe exercises exclusive jurisdiction;

5 (i) Relating to petitions to compel disclosure of information
6 filed by the department of social and health services pursuant to RCW
7 74.13.042; and

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

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

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

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

25 **Sec. 2.** RCW 13.40.110 and 2009 c 454 s 3 are each amended to
26 read as follows:

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

32 (2) Mandatory decline hearing - Unless (~~waived by the court, the~~
33 ~~parties, and their counsel~~) agreed upon by the prosecutor,
34 respondent, and the court, a decline hearing shall be held when:

35 (a) The respondent is sixteen or seventeen years of age and the
36 information alleges a class A felony or an attempt, solicitation, or
37 conspiracy to commit a class A felony;

1 (b) The respondent is sixteen or seventeen years of age and the
2 information alleges any violent offense as defined in RCW 9.94A.030,
3 and the juvenile is alleged to have been armed with a firearm;

4 (c) The respondent is seventeen years of age and the information
5 alleges assault in the second degree, extortion in the first degree,
6 indecent liberties, child molestation in the second degree,
7 kidnapping in the second degree, or robbery in the second degree; or

8 ((+e)) (d) The information alleges an escape by the respondent
9 and the respondent is serving a minimum juvenile sentence to age
10 twenty-one.

11 (3) The court after a decline hearing may order the case
12 transferred for adult criminal prosecution upon a finding that the
13 declination would be in the best interest of the juvenile or the
14 public. The court shall consider the relevant reports, facts,
15 opinions, and arguments presented by the parties and their counsel.

16 (4) When the respondent is transferred for criminal prosecution
17 or retained for prosecution in juvenile court, the court shall set
18 forth in writing its finding which shall be supported by relevant
19 facts and opinions produced at the hearing.

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