
HOUSE BILL 2369

State of Washington 60th Legislature 2007 Regular Session

By Representatives Ahern, McCune, Dunn, Sump, Pearson, Hinkle,
Warnick, Curtis and O'Brien

Read first time 02/28/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to mandating termination of a parent's rights to a
2 biological or adopted child if the child is fifteen years of age or
3 younger and is the victim of rape by the parent; amending RCW
4 13.34.200; reenacting and amending RCW 13.04.030; and adding a new
5 section to chapter 13.34 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
8 to read as follows:

9 At the time of sentencing, the court shall enter an order
10 terminating all parental rights to a child if:

11 (1) The defendant is convicted under RCW 9A.44.040 of rape in the
12 first degree, the victim was the defendant's biological or adopted
13 child, and the victim was under sixteen years of age at the time the
14 offense occurred;

15 (2) The defendant is convicted under RCW 9A.44.073 of rape of a
16 child in the first degree and the victim was the defendant's biological
17 or adopted child;

18 (3) The defendant is convicted under RCW 9A.44.076 of rape of a

1 child in the second degree and the victim was the defendant's
2 biological or adopted child; or

3 (4) The defendant is convicted under RCW 9A.44.079 of rape of a
4 child in the third degree and the victim was the defendant's biological
5 or adopted child.

6 **Sec. 2.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read
7 as follows:

8 (1) Upon the termination of parental rights pursuant to RCW
9 13.34.180 or section 1 of this act, all rights, powers, privileges,
10 immunities, duties, and obligations, including any rights to custody,
11 control, visitation, or support existing between the child and parent
12 shall be severed and terminated and the parent shall have no standing
13 to appear at any further legal proceedings concerning the child:
14 PROVIDED, That any support obligation existing prior to the effective
15 date of the order terminating parental rights shall not be severed or
16 terminated. The rights of one parent may be terminated without
17 affecting the rights of the other parent and the order shall so state.

18 (2) An order terminating the parent and child relationship shall
19 not disentitle a child to any benefit due the child from any third
20 person, agency, state, or the United States, nor shall any action under
21 this chapter be deemed to affect any rights and benefits that an Indian
22 child derives from the child's descent from a member of a federally
23 recognized Indian tribe.

24 (3) An order terminating the parent-child relationship shall
25 include a statement addressing the status of the child's sibling
26 relationships and the nature and extent of sibling placement, contact,
27 or visits.

28 **Sec. 3.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are
29 each reenacted and amended to read as follows:

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

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

34 (b) Relating to children alleged or found to be dependent as
35 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

1 (c) Relating to the termination of a parent and child relationship
2 as provided in RCW 13.34.180 through 13.34.210, except when mandated
3 under section 1 of this act;

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

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

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

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

13 (iii) The alleged offense or infraction is a traffic, fish,
14 boating, or game offense, or traffic or civil infraction committed by
15 a juvenile sixteen years of age or older and would, if committed by an
16 adult, be tried or heard in a court of limited jurisdiction, in which
17 instance the appropriate court of limited jurisdiction shall have
18 jurisdiction over the alleged offense or infraction, and no guardian ad
19 litem is required in any such proceeding due to the juvenile's age:
20 PROVIDED, That if such an alleged offense or infraction and an alleged
21 offense or infraction subject to juvenile court jurisdiction arise out
22 of the same event or incident, the juvenile court may have jurisdiction
23 of both matters: PROVIDED FURTHER, That the jurisdiction under this
24 subsection does not constitute "transfer" or a "decline" for purposes
25 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,
26 That courts of limited jurisdiction which confine juveniles for an
27 alleged offense or infraction may place juveniles in juvenile detention
28 facilities under an agreement with the officials responsible for the
29 administration of the juvenile detention facility in RCW 13.04.035 and
30 13.20.060;

31 (iv) The alleged offense is a traffic or civil infraction, a
32 violation of compulsory school attendance provisions under chapter
33 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
34 assumed concurrent jurisdiction over those offenses as provided in RCW
35 13.04.0301; or

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

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

1 (B) A violent offense as defined in RCW 9.94A.030 and the juvenile
2 has a criminal history consisting of: (I) One or more prior serious
3 violent offenses; (II) two or more prior violent offenses; or (III)
4 three or more of any combination of the following offenses: Any class
5 A felony, any class B felony, vehicular assault, or manslaughter in the
6 second degree, all of which must have been committed after the
7 juvenile's thirteenth birthday and prosecuted separately;

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

10 (D) Burglary in the first degree committed on or after July 1,
11 1997, and the juvenile has a criminal history consisting of one or more
12 prior felony or misdemeanor offenses; or

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

16 (I) In such a case the adult criminal court shall have exclusive
17 original jurisdiction, except as provided in (e)(v)(E)(II) of this
18 subsection.

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

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

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

3 (g) Relating to termination of a diversion agreement under RCW
4 13.40.080, including a proceeding in which the divertee has attained
5 eighteen years of age;

6 (h) Relating to court validation of a voluntary consent to an out-
7 of-home placement under chapter 13.34 RCW, by the parent or Indian
8 custodian of an Indian child, except if the parent or Indian custodian
9 and child are residents of or domiciled within the boundaries of a
10 federally recognized Indian reservation over which the tribe exercises
11 exclusive jurisdiction;

12 (i) Relating to petitions to compel disclosure of information filed
13 by the department of social and health services pursuant to RCW
14 74.13.042; and

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

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

24 (3) The juvenile court shall have concurrent original jurisdiction
25 with the family court over child custody proceedings under chapter
26 26.10 RCW as provided for in RCW 13.34.155.

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

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