
SENATE BILL 5479

State of Washington

61st Legislature

2009 Regular Session

By Senator Hargrove; by request of Sentencing Guidelines Commission

Read first time 01/23/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the transfer of juveniles to adult court;
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 2005 c 290 s 1 and 2005 c 238 s 1 are
5 each reenacted and amended to read as follows:

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

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

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

13 (c) Relating to the termination of a parent and child relationship
14 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:

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

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

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

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

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

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

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

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

3 ~~(D) ((Burglary in the first degree committed on or after July 1,~~
4 ~~1997, and the juvenile has a criminal history consisting of one or more~~
5 ~~prior felony or misdemeanor offenses; or~~

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

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

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

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

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

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

37 (g) Relating to termination of a diversion agreement under RCW

1 13.40.080, including a proceeding in which the divertee has attained
2 eighteen years of age;

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

9 (i) Relating to petitions to compel disclosure of information filed
10 by the department of social and health services pursuant to RCW
11 74.13.042; and

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

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

21 (3) The juvenile court shall have concurrent original jurisdiction
22 with the family court over child custody proceedings under chapter
23 26.10 RCW as provided for in RCW 13.34.155.

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

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

30 (1) Discretionary decline hearing - The prosecutor, respondent, or
31 the court on its own motion may, before a hearing on the information on
32 its merits, file a motion requesting the court to transfer the
33 respondent for adult criminal prosecution and the matter shall be set
34 for a hearing on the question of declining jurisdiction provided that
35 no respondent under the age of fifteen may be transferred for adult
36 criminal prosecution except those charged with crimes in subsection

1 (2)(a) of this section. ((Unless waived by the court, the parties, and
2 their counsel, a decline hearing shall be held when:))

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

5 (a) The respondent is fifteen((7)) and the information alleges
6 murder in the first degree, RCW 9A.32.030; murder in the second degree,
7 RCW 9A.32.050; assault in the first degree, RCW 9A.36.011; or an
8 attempt to commit these crimes;

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

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

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

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

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

--- END ---