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## Human Services Committee

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### HB 1260

**Brief Description:** Concerning the transfer of juveniles to adult court.

**Sponsors:** Representatives Appleton and Dickerson; by request of Sentencing Guidelines Commission.

#### Brief Summary of Bill

- Allows the court, upon agreement by the prosecutor and the juvenile, to waive the exclusive adult court jurisdiction triggered when juvenile is 16 or 17 years old and is alleged to have committed a serious violent offense or certain serious offenses when combined with the juvenile's criminal history.
- Allows the court to waive a mandatory decline hearing upon agreement by the parties and their counsel.
- Removes the offense of burglary in the first degree from the list of offenses for which exclusive adult court jurisdiction is triggered when the juvenile is age 16 or 17.
- Prevents adult court jurisdiction over a juvenile under the age of 15 unless the juvenile is alleged to have committed murder or assault in the first degree or to have attempted to commit these crimes.
- Changes the offenses for which a mandatory decline hearing must be held when the juvenile is 15 years old.

**Hearing Date:** 1/26/09

**Staff:** Linda Merelle (786-7092)

#### **Background:**

##### Juvenile Court Jurisdiction

The terms "juvenile," "youth," and "child" are synonymous under Washington law. A juvenile is any individual who is under the chronological age of 18 years and who has not been previously

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transferred to adult court pursuant to the decline statutes or who is otherwise under adult court jurisdiction.

Under Washington law, a child under the age of 8 is incapable of committing a crime. Children ages 8 through 11 are presumed to be incapable of committing an offense. That presumption may be removed by clear and convincing evidence that the child had the capacity to understand the act and to know that it was wrong. Children aged 12 and older are presumed to have the capacity to commit an offense or crime, which may be rebutted by evidence regarding competency.

Generally, children aged 12 through 17 (and those aged 8 through 11 for whom the state has rebutted the presumption that they are incapable of committing an offense) are under the exclusive jurisdiction of the juvenile court. There are some critical exceptions to this rule such as when a juvenile court has issued an order declining jurisdiction or circumstances exist where an adult court has exclusive jurisdiction over a 16 or 17-year-old.

### Adult Court Jurisdiction for Persons Under Age 18

***Decline Hearings:*** There are two kinds of decline hearings, mandatory and discretionary. A decline hearing is held before a hearing is held on the merits of an alleged offense charged by the state. There are eight criteria that a juvenile court should consider before declining jurisdiction. A court may decline jurisdiction even if all of the criteria are not met. Some of the factors to be considered are whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner, as well as the sophistication and maturity of the juvenile. A court order declining jurisdiction must articulate its findings for declining jurisdiction. These findings must be supported by a preponderance of the evidence.

***Mandatory:*** A decline hearing is mandatory when a juvenile is 15, 16, or 17 years old and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony. It is mandatory if the juvenile is 17 years old and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree. A decline hearing is also mandatory if the information alleges an escape and the juvenile is serving a minimum juvenile sentencing to age 21.

***Discretionary:*** The prosecutor, the juvenile, or the court may file a motion requesting a hearing on whether the court should transfer a juvenile to adult court for criminal prosecution.

***Automatic Adult Court Jurisdiction:*** The adult criminal court has exclusive jurisdiction over a juvenile if the juvenile is ages 16 or 17 and is alleged to have committed one of the following:

- a serious violent offense;
- a violent offense with a criminal history of (a) one or more prior serious violent offenses; (b) two or more prior violent offenses; or (c) three or more of any combination of any class A felony, class B felony, vehicular assault, or manslaughter in the second degree (All of these must have been committed after the juvenile's thirteenth birthday and prosecuted separately.);
- robbery in the first degree with a criminal history of one or more prior felony or misdemeanor offenses;

- burglary in the first degree with one or more prior felony or misdemeanor offenses; or
- any violent offense with a firearm allegation.

Under Washington law, once the adult criminal court has exerted jurisdiction over a juvenile, that person remains an adult for all future criminal offenses. For example, if a 15-year-old has been convicted and completed the terms of a sentence in adult court, and that person commits a further offense at age 17, he or she is treated as an adult and is subject to adult court jurisdiction, regardless of the nature of the offense, felony, or misdemeanor.

**Summary of Bill:**

If there is agreement by the prosecutor and the juvenile, the court has the discretion to enter an order waiving exclusive adult court jurisdiction over a juvenile aged 16 or 17 if adult court jurisdiction has been triggered by a serious violent offense or certain serious offenses combined with the juvenile's criminal history. The offense of burglary in the first degree will no longer trigger exclusive adult court jurisdiction for a 16 or 17 year old. Also, upon agreement by the parties, the court may waive a mandatory decline hearing.

Unless a juvenile is alleged to have committed or to have attempted to commit murder or assault in the first degree, the juvenile court may not decline jurisdiction over a juvenile under the age of 15. A decline hearing for a juvenile aged 15 is mandatory only for the offenses of murder and assault in the first degree or an attempt to commit these offenses. For all other class A offenses, a decline hearing for a juvenile aged 15 is discretionary.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.