

# SENATE BILL REPORT

## SB 5479

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As of January 23, 2009

**Title:** An act relating to the transfer of juveniles to adult court.

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

**Sponsors:** Senator Hargrove; by request of Sentencing Guidelines Commission.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/23/09.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Jennifer Strus (786-7316)

**Background:** There are three ways by which a juvenile accused of committing an offense can be prosecuted in adult court: discretionary decline hearing; mandatory decline hearing; and statutory exclusion.

Discretionary Decline Hearing. The prosecutor or the juvenile may make a motion requesting that the juvenile be transferred to adult court. The court will set the matter for a hearing on whether the juvenile court should decline jurisdiction in the case. The court may also, on its own motion, set the matter for a decline hearing.

Mandatory Decline Hearing. A hearing on whether a juvenile should be prosecuted in adult court must be held in the following instances:

- The juvenile is 15, 16, or 17 years old and is alleged to have committed a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- The juvenile is 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
- The juvenile is alleged to have committed an escape during the time that the juvenile is serving a minimum juvenile sentence to age 21.

After the decline hearing, the court may order the case transferred to adult court if it finds that adult court prosecution would be in the juvenile's or the public's best interest.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Statutory Exclusion. Adult court jurisdiction is automatic when a juvenile is 16 or 17 years old on the date the alleged offense is committed and the alleged offense is one of the following:

- a serious violent offense;
- a violent offense and the juvenile has a criminal history consisting of one or more prior violent offenses, two or more prior violent offenses, or any class A felony, any class B felony, vehicular assault or manslaughter in the 2nd degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately;
- robbery in the 1st degree, rape of a child in the 1st degree, or a drive-by shooting;
- burglary in the 1st degree committed on or after July 1, 1997, and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
- any violent offense committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

**Summary of Bill:** No juvenile under the age of 15 may be prosecuted in adult court.

A hearing to determine whether a juvenile should be prosecuted in adult court is required when the juvenile is 15 and is charged with murder in the 1st degree, murder in the 2nd degree, assault in the 1st degree, or an attempt to commit these crimes.

The requirement that a juvenile charged with burglary in the 1st degree on or after July 1, 1997, and who has a criminal history consisting of one or more prior felony or misdemeanor offenses be automatically tried in adult court is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: There is agreement between the prosecutors and other stakeholders that the removal of Burglary 1 from the list for statutory waiver is okay because the crime is also included in the definition of violent crime so it is duplicative. All agree that the prosecutor and the defense attorney should have the ability to agree that, in a statutory waiver situation, the juvenile should be tried in juvenile court not adult court. Since there would be no hearing to determine this issue, there would be no cost associated with it. In situations in which a 15 year old is charged with an offense and the statute requires a mandatory decline hearing, and it is not a case in which the prosecutors would push for decline, they have to return to court multiple times to ask for continuances. The portion of the bill that states a 15 year old can be declined only for enumerated offenses is not agreed to by the stakeholders.

CON: The number of decline hearings since 1977 has dropped dramatically. The prosecutors do not disagree with the change that would allow the prosecutor and the defense attorney to agree to keep the juvenile in juvenile court and avoid a hearing on the topic. They do not agree that Burglary 1 should be removed from the statutory waiver statute. It is a very serious

crime and if the parties have a discussion at the beginning of the case as to whether a juvenile should remain in juvenile court, they can deal with the Burglary 1 issue in that manner.

**Persons Testifying:** PRO: Beth Colgan, Columbia Legal Services; Jean Soliz-Conklin, Sentencing Guidelines Commission.

CON: Dan Satterberg, King County Prosecuting Attorney; Russ Hauge, Kitsap County Prosecuting Attorney.