
**Early Learning & Human Services
Committee**

HB 1289

Brief Description: Making changes to juvenile court jurisdiction over offenders.

Sponsors: Representatives Dickerson, Goodman, Pedersen, Fitzgibbon, Hunt, Carlyle, Kenney, Appleton, Eddy, Moeller, Kagi and Roberts.

Brief Summary of Bill

- Eliminates the original court jurisdiction for juveniles charged with certain criminal offenses; a juvenile must have a decline hearing before being transferred to adult court jurisdiction.
- Permits a juvenile, the prosecutor, or the court, at any time prior to sentencing, to request or set a hearing to determine whether adult court jurisdiction is in the best interests of the juvenile or the public.

Hearing Date: 2/3/11

Staff: Linda Merelle (786-7092).

Background:

Juvenile Court Jurisdiction.

The terms "juvenile," "youth," and "child" are synonymous under Washington law. 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.

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.

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 when 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 the court hears the merits of an offense charged by the state. There are eight criteria that a juvenile court should consider in deciding whether to decline or keep jurisdiction. In some cases, 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 doing so. These findings must be supported by a preponderance of the evidence.

Mandatory. A decline hearing is mandatory when a juvenile is 16 or 17 years old, and the information alleges a Class A felony or an anticipatory offense for which the underlying offense was a class A felony. An anticipatory offense is an attempt, solicitation, or conspiracy to commit an offense. The hearing is also mandatory if the juvenile is 17 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. It is also mandatory if the information alleges an escape and the juvenile is serving a minimum juvenile sentence 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.

Original Adult Court Jurisdiction. The adult criminal court has exclusive jurisdiction over a juvenile if the juvenile is 16 or 17 years old 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.

Exceptions to Adult Court Jurisdiction. Generally, once a juvenile has been transferred to an adult criminal court, the juvenile remains an adult for all future criminal offenses. This may be referred to as "once an adult, always an adult." This rule, however, has two exceptions. If the juvenile was convicted of a lesser charge or acquitted of the charge for which he or she was transferred, the adult court will no longer have jurisdiction. The juvenile court may also have

jurisdiction if a juvenile is charged with an offense after previously being transferred, but whose transferred case is no longer pending under the adult court. For example, if a 15-year-old has been convicted and completed the terms of a sentence in adult court, and he or she later commits an offense at age 17, the 17-year-old will be under the jurisdiction of the juvenile court, unless it is an offense for which there is original adult court jurisdiction or the court determines after a decline hearing that the matter should be heard in adult court.

Summary of Bill:

Juveniles will no longer be subject to original adult court jurisdiction. A juvenile who is charged with a criminal offense may only be transferred to adult court after a decline hearing. Once a juvenile has been transferred to adult court for a criminal prosecution, any time before sentencing, the juvenile, the prosecutor, or the court may request a hearing to determine whether adult court jurisdiction is in the best interests of the juvenile or the public. Good cause must be shown if a hearing is requested by the juvenile or the prosecutor.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 2, 2011.

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