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**SUBSTITUTE HOUSE BILL 1289**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Early Learning & Human Services (originally sponsored by Representatives Dickerson, Goodman, Pedersen, Fitzgibbon, Hunt, Carlyle, Kenney, Appleton, Eddy, Moeller, Kagi, and Roberts)

READ FIRST TIME 02/11/11.

1       AN ACT Relating to juvenile court jurisdiction over offenders;  
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 2009 c 526 s 1 and 2009 c 454 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 13.34.161;

12       (c) Relating to the termination of a parent and child relationship  
13 as provided in RCW 13.34.180 through 13.34.210;

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

16       (e) Relating to juveniles alleged or found to have committed  
17 offenses, traffic or civil infractions, or violations as provided in  
18 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. If  
12 such an alleged offense or infraction and an alleged offense or  
13 infraction subject to juvenile court jurisdiction arise out of the same  
14 event or incident, the juvenile court may have jurisdiction of both  
15 matters. The jurisdiction under this subsection does not constitute  
16 "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of  
17 this subsection. Courts of limited jurisdiction which confine  
18 juveniles for an alleged offense or infraction may place juveniles in  
19 juvenile detention facilities under an agreement with the officials  
20 responsible for the administration of the juvenile detention facility  
21 in RCW 13.04.035 and 13.20.060;

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

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

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

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

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

1 ~~(D) Burglary in the first degree committed on or after July 1,~~  
2 ~~1997, and the juvenile has a criminal history consisting of one or more~~  
3 ~~prior felony or misdemeanor offenses; or~~

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

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

10 ~~(II))~~ murder in the first degree or murder in the second degree;

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

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

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

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

36 (g) Relating to termination of a diversion agreement under RCW  
37 13.40.080, including a proceeding in which the divertee has attained  
38 eighteen years of age;

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

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

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

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

19 (3) The juvenile court shall have concurrent original jurisdiction  
20 with the family court over child custody proceedings under chapter  
21 26.10 RCW and parenting plans or residential schedules under chapters  
22 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

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

27 **Sec. 2.** RCW 13.40.110 and 2009 c 454 s 3 are each amended to read  
28 as follows:

29 (1) Decline hearings.

30 (a) 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.

35 ((+2)) (b) Mandatory decline hearing - Unless waived by the court,  
36 the parties, and their counsel, a decline hearing shall be held when:

1        ~~((a))~~ (i) The respondent is sixteen or seventeen years of age and  
2 the information alleges a class A felony or an attempt, solicitation,  
3 or conspiracy to commit a class A felony;

4        ~~((b))~~ (ii) The respondent is seventeen years of age and the  
5 information alleges assault in the second degree, extortion in the  
6 first degree, indecent liberties, child molestation in the second  
7 degree, kidnapping in the second degree, or robbery in the second  
8 degree; or

9        ~~((c))~~ (iii) The information alleges an escape by the respondent  
10 and the respondent is serving a minimum juvenile sentence to age  
11 twenty-one.

12        ~~((3))~~ (2) The court after a decline hearing may order the case  
13 transferred for adult criminal prosecution upon a finding that the  
14 declination would be in the best interest of the juvenile or the  
15 public. The court shall consider the relevant reports, facts,  
16 opinions, and arguments presented by the parties and their counsel.

17        ~~((4))~~ (3) When the respondent is transferred for criminal  
18 prosecution or retained for prosecution in juvenile court, the court  
19 shall set forth in writing its finding which shall be supported by  
20 relevant facts and opinions produced at the hearing.

21        (4) If the adult court has original jurisdiction over a juvenile  
22 offender pursuant to RCW 13.04.030(1)(e)(v) or a juvenile offender's  
23 case has been transferred from juvenile court to adult court for  
24 criminal prosecution, at any time prior to sentencing the defendant or  
25 the prosecutor, for good cause shown, may request a hearing or the  
26 adult court on its own motion may set a hearing to determine whether it  
27 would be in the best interest of the juvenile or the public to transfer  
28 the case to juvenile court. After a hearing on whether the case should  
29 be transferred to juvenile court the adult court shall set forth in  
30 writing its finding, which shall be supported by relevant facts and  
31 opinions produced at the hearing.

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