

SHB 1239 - S AMD 463

By Senators Hargrove, Regala, Stevens

ADOPTED 04/22/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are
4 each reenacted and amended to read as follows:

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

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

9 (b) Relating to children alleged or found to be dependent as
10 provided in chapter 26.44 RCW and in RCW 13.34.030 through
11 (~~(13.34.170)~~) 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:

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

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

23 (iii) The alleged offense or infraction is a traffic, fish,
24 boating, or game offense, or traffic or civil infraction committed by
25 a juvenile sixteen years of age or older and would, if committed by an
26 adult, be tried or heard in a court of limited jurisdiction, in which
27 instance the appropriate court of limited jurisdiction shall have
28 jurisdiction over the alleged offense or infraction, and no guardian ad
29 litem is required in any such proceeding due to the juvenile's age(~~(+~~
30 ~~PROVIDED, That~~)). _____ If such an alleged offense or infraction and an

1 alleged offense or infraction subject to juvenile court jurisdiction
2 arise out of the same event or incident, the juvenile court may have
3 jurisdiction of both matters(~~(: PROVIDED FURTHER, That)~~). The
4 jurisdiction under this subsection does not constitute "transfer" or a
5 "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this
6 subsection(~~(: PROVIDED FURTHER, That)~~). Courts of limited
7 jurisdiction which confine juveniles for an alleged offense or
8 infraction may place juveniles in juvenile detention facilities under
9 an agreement with the officials responsible for the administration of
10 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

11 (iv) The alleged offense is a traffic or civil infraction, a
12 violation of compulsory school attendance provisions under chapter
13 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
14 assumed concurrent jurisdiction over those offenses as provided in RCW
15 13.04.0301; or

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

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

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

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

28 (D) Burglary in the first degree committed on or after July 1,
29 1997, and the juvenile has a criminal history consisting of one or more
30 prior felony or misdemeanor offenses; or

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

34 (I) In such a case the adult criminal court shall have exclusive
35 original jurisdiction, except as provided in (e)(v)(E)(II) of this
36 subsection.

37 (II) The juvenile court shall have exclusive jurisdiction over the
38 disposition of any remaining charges in any case in which the juvenile

1 is found not guilty in the adult criminal court of the charge or
2 charges for which he or she was transferred, or is convicted in the
3 adult criminal court of a lesser included offense that is not also an
4 offense listed in (e)(v) of this subsection. The juvenile court shall
5 enter an order extending juvenile court jurisdiction if the juvenile
6 has turned eighteen years of age during the adult criminal court
7 proceedings pursuant to RCW 13.40.300. However, once the case is
8 returned to juvenile court, the court may hold a decline hearing
9 pursuant to RCW 13.40.110 to determine whether to retain the case in
10 juvenile court for the purpose of disposition or return the case to
11 adult criminal court for sentencing.

12 If the juvenile challenges the state's determination of the
13 juvenile's criminal history under (e)(v) of this subsection, the state
14 may establish the offender's criminal history by a preponderance of the
15 evidence. If the criminal history consists of adjudications entered
16 upon a plea of guilty, the state shall not bear a burden of
17 establishing the knowing and voluntariness of the plea;

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

20 (g) Relating to termination of a diversion agreement under RCW
21 13.40.080, including a proceeding in which the divertee has attained
22 eighteen years of age;

23 (h) Relating to court validation of a voluntary consent to an out-
24 of-home placement under chapter 13.34 RCW, by the parent or Indian
25 custodian of an Indian child, except if the parent or Indian custodian
26 and child are residents of or domiciled within the boundaries of a
27 federally recognized Indian reservation over which the tribe exercises
28 exclusive jurisdiction;

29 (i) Relating to petitions to compel disclosure of information filed
30 by the department of social and health services pursuant to RCW
31 74.13.042; and

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

37 (2) The family court shall have concurrent original jurisdiction

1 with the juvenile court over all proceedings under this section if the
2 superior court judges of a county authorize concurrent jurisdiction as
3 provided in RCW 26.12.010.

4 (3) The juvenile court shall have concurrent original jurisdiction
5 with the family court over child custody proceedings under chapter
6 26.10 RCW and parenting plans or residential schedules under chapters
7 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

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

12 **Sec. 2.** RCW 13.34.155 and 2000 c 135 s 1 are each amended to read
13 as follows:

14 (1) The court hearing the dependency petition may hear and
15 determine issues related to chapter 26.10 RCW in a dependency
16 proceeding as necessary to facilitate a permanency plan for the child
17 or children as part of the dependency disposition order or a dependency
18 review order or as otherwise necessary to implement a permanency plan
19 of care for a child. The parents, guardians, or legal custodian of the
20 child must agree, subject to court approval, to establish a permanent
21 custody order. This agreed order may have the concurrence of the other
22 parties to the dependency including the supervising agency, the
23 guardian ad litem of the child, and the child if age twelve or older,
24 and must also be in the best interests of the child. If the petitioner
25 for a custody order under chapter 26.10 RCW is not a party to the
26 dependency proceeding, he or she must agree on the record or by the
27 filing of a declaration to the entry of a custody order. Once an order
28 is entered under chapter 26.10 RCW, and the dependency petition
29 dismissed, the department shall not continue to supervise the
30 placement.

31 (2)(a) The court hearing the dependency petition may establish or
32 modify a parenting plan under chapter 26.09 or 26.26 RCW as part of a
33 disposition order or at a review hearing when doing so will implement
34 a permanent plan of care for the child and result in dismissal of the
35 dependency.

36 (b) The dependency court shall adhere to procedural requirements

1 under chapter 26.09 RCW and must make a written finding that the
2 parenting plan established or modified by the dependency court under
3 this section is in the child's best interests.

4 (c) Unless the whereabouts of one of the parents is unknown to
5 either the department or the court, the parents must agree, subject to
6 court approval, to establish the parenting plan or modify an existing
7 parenting plan.

8 (d) Whenever the court is asked to establish or modify a parenting
9 plan, the child's residential schedule, the allocation of decision-
10 making authority, and dispute resolution under this section, the
11 dependency court may:

12 (i) Appoint a guardian ad litem to represent the interests of the
13 child when the court believes the appointment is necessary to protect
14 the best interests of the child; and

15 (ii) Appoint an attorney to represent the interests of the child
16 with respect to provisions for the parenting plan.

17 (e) The dependency court must make a written finding that the
18 parenting plan established or modified by the dependency court under
19 this section is in the child's best interests.

20 (f) The dependency court may interview the child in chambers to
21 ascertain the child's wishes as to the child's residential schedule in
22 a proceeding for the entry or modification of a parenting plan under
23 this section. The court may permit counsel to be present at the
24 interview. The court shall cause a record of the interview to be made
25 and to become part of the court record of the dependency case and the
26 case under chapter 26.09 or 26.26 RCW.

27 (g) In the absence of agreement by a parent, guardian, or legal
28 custodian of the child to allow the juvenile court to hear and
29 determine issues related to the establishment or modification of a
30 parenting plan under chapter 26.09 or 26.26 RCW, a party may move the
31 court to transfer such issues to the family law department of the
32 superior court for further resolution. The court may only grant the
33 motion upon entry of a written finding that it is in the best interests
34 of the child.

35 (h) In any parenting plan agreed to by the parents and entered or
36 modified in juvenile court under this section, all issues pertaining to
37 child support and the division of marital property shall be referred to
38 or retained by the family law department of the superior court.

