



PRACTICE ADVISORY | Juvenile Auto Decline and Decline | 5.30.19
With 2019 Legislation: ESSHB 1646, effective July 28, 2019.
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In 2018, the Washington legislature significantly revised the law relating to transfer of youth from the juvenile justice system to the adult criminal justice system, often referred to as “decline.” The legislation, E2SSB 6160, significantly changed the auto-decline, mandatory decline and discretionary decline statutes. It also increased the potential length of confinement and parole for youth allowing for confinement to age 25 for youth who are 16 or 17 at the time of offense and adjudicated in juvenile court for certain serious offenses. In 2019, the legislature changed discretionary decline to include a youth of any age charged with custodial assault while serving a juvenile minimum sentence to age 21.

Auto Decline RCW 13.04.030(1)(e)(v).

In 2018, the Legislature removed the following offenses from the auto-decline statute for youth who are 16 or 17 at the time of the offense: (1) robbery in the first degree (2) burglary in the first degree (3) drive by shooting and (4) any violent offense committed with firearm.

Auto-decline is now limited to:

- Youth who are 16 or 17 at the time of offense and charged with a “serious violent offense;”¹
- Youth who are 16 or 17 at the time of offense charged with rape of a child 1;
- Youth who are 16 or 17 at the time of offense charged with a “violent offense”² AND who have criminal history including (1) two or more prior violent offenses; OR (2) three or more of any of the following: class A or class B felony, vehicular assault, manslaughter 2, all committed after age 13 and prosecuted separately.

A declined case can be transferred back to juvenile court. RCW 13.04.030(1)(e)(v)(C).

¹ Serious Violent Offense is defined at RCW 9.94A.030; it includes murder 1/2, homicide by abuse, manslaughter 1, assault 1, kidnap 1, rape 1, assault of a child 1, or any attempt, conspiracy, or solicitation to commit these felonies

² Violent Offense is defined at RCW 9.94A.030; it includes any class A felony or attempt, conspiracy or solicitation to commit a Class A, Manslaughter 1 or 2, Indecent liberties with forcible compulsion, kidnap 2, arson 2, assault 2, assault of a child 2, extortion 1, robbery 2, drive by shooting, and vehicular assault or homicide while DUI or reckless driving.

- An auto-decline case may be transferred to juvenile court for any auto-decline offense by agreement of the parties and with court approval. RCW 13.04.030(1)(e)(v)(C)(III).
- Jurisdiction transfers back to juvenile court if the juvenile is found not guilty in adult court of the charge for which he or she was transferred. RCW 13.04.030(1)(e)(v)(C)(II). **The 2019 legislation removed discretionary decline for juvenile offenses returned to juvenile court under this section.**

Mandatory Decline Hearing. RCW 13.40.110(2).

The only mandatory decline hearings held will be for those juveniles charged with escape while serving a minimum sentence until age 21.

Discretionary Decline Hearing. RCW 13.40.110(1).

Prior to the 2018 legislation, discretionary decline was unlimited. Discretionary decline hearings are now limited to (1) youth who are 15 and older charged with a “serious violent offense” or (2) youth who are 14 or younger charged with murder 1 or 2 or (3) (after July 28, 2019) youth of any age charged with custodial assault while already serving a minimum juvenile sentence to age 21.

Changes to the Sentencing Ranges in Juvenile Court RCW 13.40.0357.

In 2018 changes to the sentencing ranges under the Juvenile Justice Act included a new category of A++ offense with a sentencing range of 129-260 weeks that applies to youth who are 16 or 17 at the time of offense and convicted of drive by shooting and robbery 1. The penalty range increased for all youth who are 16 or 17 and convicted of burglary 1. In 2019 the legislature changed the category for attempted/solicitation/bail jump for robbery 1 and drive by shooting from A+ to A, reducing the standard range to 103-129 weeks for all offenses.

Changes to Maximum JR Confinement and Parole Increased to Age 25 for Some Youth.

RCW 13.40.300. Along with the 2018 changes to decline statutes, the legislature increased the potential punishment ranges for some youth. The 2018 legislation provided that youth who are 16 and 17 at the time of offense and adjudicated in juvenile court of robbery 1, drive by shooting, or a violent offense while armed with a firearm may be committed to a juvenile facility up to age 25 for their juvenile offenses. For these youth parole is automatically extended to include a period of up to 24 months and may be extended to age 25.

The full Bill and Final Bill Report (Summary) for E2SSB 6160 (2018) are found [here](#), and the full Bill and Final Bill Report (Summary) for E2SSB 1646 (2019) are found [here](#).