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KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

MONTGOMERY MANRO,

Petitioner,

v.

THE STATE OF WASHINGTON,

Respondent.

CAUSE NO. 05-2-41321-2 SEA

PETITION FOR WRIT OF  
HABEAS CORPUS

**A. Identity of Petitioner**

Montgomery Manro, by and through his attorneys, Michael P. Iaria and Neil M. Fox, is the petitioner in this matter.

**B. Place of Restraint**

Mr. Manro is restrained in King County, Washington, and is about to begin serving an eight month jail sentence in the King County Department of Adult and Juvenile Detention in Seattle, Washington. After the jail sentence, Mr. Manro has been ordered to be on probation, supervised by the Department of Corrections, with various conditions and restrictions.

**C. Parties Restraining Petitioner**

The State of Washington is restraining Mr. Manro and is about to incarcerate him at the King County Department of Adult and Juvenile Detention and then place him on supervised probation by the Washington State Department of Corrections. However, because Mr. Manro has not yet reported to the jail to begin serving the sentence, the King County

1 Department of Adult and Juvenile Detention and the Department of Corrections have not  
2 been named as parties to this case. If Mr. Manro is taken into custody while this petition is  
3 pending, Mr. Manro will seek leave of the Court to file an amended petition, adding the King  
4 County Department of Adult and Juvenile Detention and its director, Reed Holtgeerts, as  
5 parties. If the case continues until Mr. Manro is on probation, he will seek to add the  
6 Department of Corrections as a party.

7 **D. Cause and Pretense for Restraint**

8 Mr. Manro is under restraint of a judgment and sentence for two counts of fourth  
9 degree assault in State v. Montgomery Manro, King County No. 02-C-03980-1 Sea. Mr.  
10 Manro was sentenced to seven months in jail on one count and thirty days in jail on the other  
11 count, the sentences to run consecutively, followed by one year of supervised probation. Ex.  
12 1. The judgment imposing this sentence was entered on February 14, 2003. The jail sentence  
13 was stayed on direct appeal. The Court of Appeals affirmed the conviction on January 10,  
14 2005. Ex. 2. The Supreme Court denied review on October 5, 2005, and the mandate issued  
15 on November 18, 2005. Ex. 3. Mr. Manro is about to begin serving this sentence.

16 **E. Jurisdiction**

17 This Court has jurisdiction to issue a writ of habeas corpus under RCW 7.36 et seq.,  
18 Wash. Const. art. 1, § 13 and Wash. Const. art. 4, §§ 4 & 6. Toliver v. Olsen, 109 Wn.2d 607,  
19 746 P.2d 808 (1987). While Mr. Manro is not yet in custody, RCW 7.36 does not require  
20 actual custody as a predicate for relief. Born v. Thompson, 154 Wn.2d 759, 765, 117 P.3d  
21 1098 (2005). Even under a more restrictive "custody" requirement, there is habeas  
22 jurisdiction to challenge a sentence that the petitioner has not yet begun serving, but will serve  
23 in the future. Maleng v. Cook, 490 U.S. 488, 491-93, 104 L. Ed. 2d 540, 109 S. Ct. 1923  
24 (1989). Accordingly, this Court has jurisdiction to issue a writ even though Mr. Manro is not  
25 yet in the physical custody of the King County Department of Adult and Juvenile Detention.

26 **F. Nature of Illegal Restraint**

27 1. Mr. Manro was born on October 13, 1984. When he was seventeen years old,  
28 he was charged in King County Superior Court with one count of first degree assault and one

1 count of fourth degree assault. Under the "auto-decline" provisions of RCW 13.04.030, Mr.  
2 Manro was charged as an adult, without a decline hearing ever being held.

3 2. Mr. Manro repeatedly attempted to extend juvenile jurisdiction on the charged  
4 fourth degree assault charge, as well as on any lesser crimes included within the charged first  
5 degree assault charge. These attempts were unsuccessful.

6 3. The trial began while Mr. Manro was still seventeen years of age. He turned  
7 eighteen during the pendency of the case. Ultimately, the jury found Mr. Manro guilty only of  
8 two gross misdemeanors. The court sentenced him to serve seven months in jail on one count,  
9 and thirty days in jail on the other count, to be served consecutively, followed by one year of  
10 supervised probation, with various restrictions.

11 4. Mr. Manro appealed his convictions, challenging the "auto-decline" provisions  
12 as it related to his conviction in adult court for non-auto-decline crimes.

13 5. The Court of Appeals rejected Mr. Manro's arguments, and the Supreme Court  
14 denied review.

15 6. After the Court of Appeals rejected Mr. Manro's arguments, but before  
16 Supreme Court denied review and before the mandate issued, the Washington State  
17 Legislature adopted SHB 2061, which was signed by the Governor and became effective on  
18 July 24, 2005. Laws of 2005, Ch. 238. Ex. 4. This bill was intended to clarify the law  
19 regarding juvenile jurisdiction, and was intended to correct the misreading of the prior statute  
20 by the Court of Appeals in Mr. Manro's case. In this bill, the Legislature amended RCW  
21 13.04.030, adding the following language to the auto-decline provisions:

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

24 (II) The juvenile court shall have exclusive jurisdiction over the  
25 disposition of any remaining charges in any case in which the juvenile is found  
26 not guilty in the adult criminal court of the charge or charges for which he or  
27 she was transferred, or is convicted in the adult criminal court of a lesser  
28 included offense that is not also an offense listed in (e)(v) of this subsection.  
The juvenile court shall enter an order extending juvenile court jurisdiction if  
the juvenile has turned eighteen years of age during the adult criminal court  
proceedings pursuant to RCW 13.40.300. However, once the case is returned to  
juvenile court, the court may hold a decline hearing pursuant to RCW  
13.40.110 to determine whether to retain the case in juvenile court for the

1 purpose of disposition or return the case to adult criminal court for sentencing.

2  
3 See also SHB 2061, § 2 (amending RCW 13.40.300 to allow for extension of jurisdiction over  
4 lesser offenses upon which auto-decline was not based). Thus, under SHB 2061, Mr. Manro's  
5 convictions for assault in the fourth degree should have been sent to juvenile court for  
6 disposition, and jurisdiction in juvenile court should have been extended.

7 7. The legislative history for SHB 2061 makes it clear that the bill was intended  
8 to clarify what all thought was the law prior to the Court of Appeals' decision. Copies of  
9 various portions of the legislative history are attached in Ex. 5. Notably, there is no provision  
10 in this bill for prospective application only, as there is in another bill regarding juvenile  
11 jurisdiction adopted at the same time. Compare EHB 1187, Laws of 2005, ch. 437 (regarding  
12 mandatory minimums).

13 8. Recently, Division Three of the Court of Appeals recognized that SHB 2061  
14 was curative, intended to be remedial and was intended to apply retroactively. State v. Posey,  
15 \_\_\_ Wn. App. \_\_\_, 122 P.3d 914 (No. 23041-4-III, 11/4/05). However, the panel held that the  
16 Legislature could not "overrule" a decision of the Court of Appeals and thus refused to apply  
17 the new bill retroactively.

18 9. The Posey panel is wrong. Moreover, this Division Three decision is not final,  
19 having not been mandated yet, nor is it binding on this Court. "[U]ntil the Court of Appeals  
20 issues its mandate pursuant to RAP 12.5, a decision of the Court of Appeals does not take  
21 effect. RAP 12.2." Obert v. Environmental Research and Development Corp., 112 Wn.2d  
22 323, 340, 771 P.2d 340 (1989).

23 10. The Posey panel's analysis is flawed because the decision in Mr. Manro's case  
24 was only a Court of Appeals' decision, and was not even final at the time the Legislature  
25 adopted its amendments. Obert, supra. Decisions of the Court of Appeals are not "the law of  
26 the State of Washington," which is announced only by the Supreme Court of Washington.  
27 See State v. Elliott, 114 Wn.2d 6, 18-19, 785 P.2d 440 (1990) (not violation of *ex post facto*  
28 for Court of Appeals to depart from another division of Court of Appeals' merger analysis).

1 The Posey case elevates non-final decisions from the Court of Appeals to the level of final  
2 decisions emanating from the Supreme Court.

3 11. In any case, what the Posey panel misunderstood is that legislative  
4 amendments adopted in response to lower court decisions are often retroactively applied,  
5 without any issues arising about separation of powers:

6 We often apply amendments retroactively "where an amendment is  
7 enacted during a controversy regarding the meaning of the law." Tomlinson v.  
8 Clarke, 118 Wn.2d 498, 511, 118 Wn.2d 498, 825 P.2d 706 (1992); *see also*  
9 State v. Riles, 135 Wn.2d 326, 343, 957 P.2d 655 (1998). *Curative*  
10 *amendments adopted in response to lower court decisions have been applied*  
11 *retroactively.* Tomlinson, 118 Wn.2d at 510; Overton v. Econ. Assistance  
12 Auth., 96 Wn.2d 552, 558, 637 P.2d 652 (1981). The Legislature's intent to  
13 clarify a statute is manifested by its adoption of the amendment "soon after  
14 controversies arose as to the interpretation of the original act[.]" Johnson v.  
15 Cont'l W., Inc., 99 Wn.2d 555, 559, 663 P.2d 482 (1983) (quoting 1A C.  
16 DALLAS SANDS, STATUTORY CONSTRUCTION § 22.31 (4th ed. 1972)).

17 McGee Guest Home Inc. v. DSHS, 142 Wn.2d 316, 325, 12 P.3d 144 (2000) (emphasis  
18 added).

19 12. SHB 2061 is clearly a curative amendment, adopted before the Court of  
20 Appeals' decision in this case was even final, and was meant to be curative. Because no  
21 substantial rights of the State are at stake by the retroactive application of SHB 2061 to Mr.  
22 Manro's case, the amendments should be applied to Mr. Manro's case.

23 13. This Court therefore did not have the jurisdiction to sentence Mr. Manro for a  
24 the two assault convictions, which were not subject to the auto-decline provisions. This lack  
25 of jurisdiction should lead this court to vacate the judgments.

26 14. Mr. Manro should not be incarcerated in the King County Jail as a result of  
27 convictions for which this Court does not have jurisdiction.

28 **G. Prayer for Relief**

For the foregoing reasons, this Court should vacate the judgment and sentence.

I declare under penalty of perjury under the laws of the State of Washington that the  
foregoing is true and correct. This petition is being filed after reasonable inquiry and is well  
grounded in fact and is warranted by existing law and is not interposed for any improper  
purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of  
litigation.

12/14/05 Seattle WA  
DATE AND PLACE

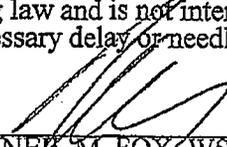
  
NEIL M. FOX, WSBA # 15277

Exhibit 1

MAR - 3 '03

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 02-C-03980-1 SEA

vs.

JUDGMENT AND SENTENCE,

MONTGOMERY A. MANRO

NON-FELONY

SUSPENDED/RCW 9.92.060

Defendant,

Count(s) I AND II

Liza BURKE

The Prosecuting Attorney, the above-named defendant and counsel MICHAEL IARIA being present in Court, the defendant having been found guilty of the crime(s) charged in the amended information on 12/16/2002 by trial and the defendant having been asked if there was any legal cause why judgment should not be pronounced and none being shown.

IT IS ADJUDGED that the defendant is guilty of the crime(s) of: I- ASSAULT IN THE FOURTH DEGREE/RCW 9A.36.041 AND II- ASSAULT IN THE FOURTH DEGREE/RCW 9A.36.041

12 MONTHS ON EACH CT

and that the defendant be sentenced to imprisonment in the King County Jail, Department of Adult Detention, for the maximum term(s) of 12 MONTHS ON EACH CT

said term(s) to run  concurrently [ ] consecutively with each other.

The sentence(s) is/are hereby SUSPENDED pursuant to the provisions of RCW 9.92.060 upon the following terms and conditions:

(1) The defendant shall serve a term of 7 MONTHS in ct I / 30 DAYS on ct II in the King County Jail, Department of Adult Detention, with credit for 4 days already served solely on this cause, ~~with work credit if eligible~~, to commence no later than 6/25/03 3:50pm. This sentence shall run [ ] concurrent  consecutively with term(s) imposed for count(s) I & II [ ] Cause # \_\_\_\_\_ This term shall run consecutive to any other term not specifically referenced in this order.

(2) The defendant shall be under the charge of a Community Corrections Officer employed by the Washington State Department of Corrections and comply with the standard rules and regulations promulgated by that department. Probation shall commence immediately but is tolled during any period of confinement. The defendant shall report to the Department of Corrections intake officer within 72 hours of this date or release date if in custody. The termination date of probation shall be set at 12 months from date of this order.

\* 30 DAYS converted to 240 Hours Community Service

(3) Defendant shall pay to the clerk of this Court:

Restitution is not ordered.

Order of Restitution is attached as Appendix.

Restitution to be determined at a restitution hearing on \_\_\_\_\_ at \_\_\_\_\_ m.  date to be set. The defendant ~~does~~ does not waive presence at restitution hearing.

(a) \$ 892.50, Court costs;

(b) \$ 500, Victim assessment, RCW 7.68.035 \$500 for gross misdemeanors and \$100 for misdemeanors.

(c) \$ \_\_\_\_\_, Recoupment for attorney's fees to King County Public Defense Programs.

(d) \$ \_\_\_\_\_, Fine;

(e) TOTAL Monetary obligations: 1392.50 + restitution if any.

(f) The above payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:  Not less than \$ \_\_\_\_\_ per month;  On a schedule established by the defendant's Community Corrections Officer.

(4)  The defendant shall complete 240 community service hours under the supervision of the Department of Corrections at a rate ~~to~~ to be determined by a Community Corrections Officer  of not less than \_\_\_\_\_ hours per month.

(5)  The defendant shall not purchase, possess, or use any  alcohol  controlled substance (without a lawful prescription). The defendant shall submit to urinalysis and/or breath testing as required by the Community Corrections Officer and submit to search of person, vehicle or home by a community corrections officer upon reasonable suspicion; \_\_\_\_\_

(6)  The defendant shall ~~obtain~~ maintain substance abuse evaluation and follow all treatment recommendations; wait \_\_\_\_\_

(7)  The defendant shall enter into, make reasonable progress and successfully complete a state certified domestic violence treatment program; \_\_\_\_\_

(8)  The defendant shall have no contact with: SEAN MACHAK; KALEKA HOOLAND; ANY OTH, STATE'S WITNESSES

(9)  The defendant shall register as a sex offender.

(10)  The defendant shall commit no criminal offenses.

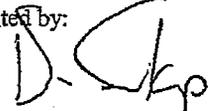
(11)  Additional conditions of probation are attached to and incorporated in this order; \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

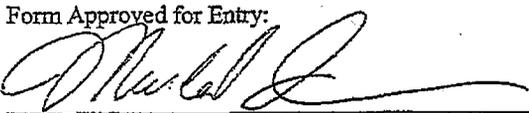
(12) Additional conditions are attached to and incorporated as Appendix \_\_\_\_\_.

The Defendant is ordered to report to commence probation supervision within three working days to the Department of Corrections Intake Officer.

Date: 2/14/03

  
\_\_\_\_\_  
Judge, King County Superior Court

Presented by:  
 17322  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Form Approved for Entry:  
  
\_\_\_\_\_  
Attorney for Defendant, WSBA # 15312

Defendant's current address:  
137-015 67th AVE  
NE, Kirkland WA.  
98034

Exhibit 2

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	DIVISION ONE
Respondent,	)	
	)	No. 52013-0-1
vs.	)	
	)	<b>PUBLISHED OPINION</b>
MONTGOMERY A. MANRO,	)	
	)	
Appellant.	)	FILED: January 10, 2005

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**BAKER, J.** — This appeal is based on the mistaken assumption that the outcome of a prosecution dictates court jurisdiction. When Montgomery Manro was 17, he was transferred from juvenile court to adult court under RCW 13.04.030(1)(e)(v) and tried on one count of first degree assault and one count of fourth degree assault. RCW 13.04.030(1)(e)(v) grants the adult court exclusive jurisdiction over cases involving 16- or 17-year-old defendants who are charged with certain enumerated, violent offenses, including assault in the first degree. Manro turned 18 after his trial began, but before the jury verdict.

The jury acquitted Manro of first degree assault, but found him guilty of the lesser crime of fourth degree assault on count I. He was also found guilty of fourth degree assault, as charged, on count II, and sentenced to 8 months confinement. He now appeals his conviction, and argues that the trial court erred by not granting his motion to extend juvenile jurisdiction under RCW 13.40.300,

in anticipation that he might be acquitted of the first degree assault charge. But the jury verdict had no affect on adult court jurisdiction. Hence, even if it had been authorized to do so, there was no reason for the adult court to provisionally extend juvenile jurisdiction. We affirm.

I.

When Montgomery Manro was 17 years old, he and three of his friends attacked two other high school students in a parking lot. One of the victims suffered a skull fracture and brain injury, resulting in paralysis on the right side of his body. Manro was charged with one count of assault in the first degree and one count of assault in the fourth degree. Manro was tried in adult court because first degree assault is a serious violent offense, which results in automatic transfer to adult court under RCW 13.04.030.

Before trial, Manro moved to dismiss the first degree assault charge on the grounds that the State did not have sufficient evidence to take the charge to a jury.<sup>1</sup> Alternatively, he requested that the court dismiss the charge without prejudice and remand the case to juvenile court, so that Manro could request that court to extend juvenile jurisdiction. The State could then re-file the first degree assault charge in adult court. This request was based on Manro's belief that if he were found not guilty of first degree assault, the fourth degree assault charge and any lesser charges under count I would then be remanded to juvenile court as long as he was 17 when his trial began. The presiding judge denied the motions.

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<sup>1</sup> State v. Knapstad, 107 Wn.2d 346, 354, 729 P.2d 48 (1986).

The following week, Manro reiterated his motion to dismiss without prejudice to a different judge. The judge did not rule on the merits of the motion. Instead, he scheduled the matter for trial on the next available trial date, thus ensuring that trial would begin before Manro turned 18. He also noted that the trial court would address Manro's motion.

The trial commenced on October 9, 2002.<sup>2</sup> Manro requested that the court extend juvenile jurisdiction over the fourth degree assault charge and all lesser charges under count I, should the first degree assault charge be removed for any reason. The court denied his request, after concluding it did not have authority under RCW 13.40.300 to extend juvenile jurisdiction. It noted that the case "is properly charged at this point in time in adult court and will remain so," therefore the "juvenile court lacks jurisdiction to accept or hear this case."

Manro turned 18 on October 13. On December 16, he was acquitted of first degree assault, but found guilty of the lesser crime of fourth degree assault on count I. He was also found guilty as charged on count II.

Before sentencing, Manro moved unsuccessfully to enter a nunc pro tunc order extending juvenile jurisdiction and to arrest judgment or grant a new trial. He was sentenced to two consecutive 12-month sentences, which were suspended on the condition that he serve 7 months in custody on count I and 30 days on count II.

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<sup>2</sup> We reject the State's assertion that trial did not commence until the later date when jury impaneling began. See State v. Carson, 128 Wn.2d 805, 820, 912 P.2d 1016 (1996) (holding that a trial commences when the trial court hears and disposes of preliminary motions).

## II.

We engage in statutory interpretation and review appeals involving constitutional rights de novo.<sup>3</sup>

Two statutory provisions are implicated in this appeal. The first is RCW 13.04.030(1)(e)(v). RCW 13.04.030 provides for exclusive original jurisdiction in the juvenile division of superior court (juvenile court) for all proceedings involving defendants below 18 years of age, with some exceptions.<sup>4</sup> The criminal division of superior court (adult court) has jurisdiction over juveniles in two circumstances. The juvenile court can transfer jurisdiction to adult court under RCW 13.40.110 after it holds a "declination hearing" to determine whether declination of juvenile court jurisdiction is in the best interests of the juvenile and the public.<sup>5</sup> Alternatively, if the juvenile is 16 or 17 and the alleged offense is enumerated in RCW 13.04.030(1)(e)(v), the defendant is automatically transferred, and the adult court has exclusive jurisdiction.<sup>6</sup> When a defendant is charged with a violent crime that automatically places him within the authority of adult court, the court has exclusive jurisdiction over all charges against the defendant.<sup>7</sup>

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<sup>3</sup> Est. of Otani v. Broudy, 151 Wn.2d 750, 753, 92 P.3d 192 (2004); State v. Stanley, 120 Wn. App. 312, 314, 85 P.3d 395 (2004).

<sup>4</sup> The juvenile court is a branch or "session" of the superior court. In re Dillenburg v. Maxwell, 70 Wn.2d 331, 352, 422 P.2d 783 (1967). Therefore, referring to the "jurisdiction" of adult versus juvenile court is not a truly accurate use of the word with respect to its traditional meaning. Dillenburg, 70 Wn.2d at 353.

<sup>5</sup> RCW 13.40.110; State v. Anderson, 83 Wn. App. 515, 518, 922 P.2d 163 (1996).

<sup>6</sup> RCW 13.04.030.

<sup>7</sup> State v. Salavea, 151 Wn.2d 133, 141 n.3, 86 P.3d 125 (2004); In re Boot, 130 Wn.2d 553, 575, 925 P.2d 964 (1996); State v. Sharon, 100 Wn.2d 230, 231, 668 P.2d 584 (1983).

The second provision involved in this appeal is RCW 13.40.300. It authorizes the juvenile court to extend jurisdiction over a defendant past his 18th birthday in some circumstances.<sup>8</sup> But the juvenile court must have jurisdiction over the proceeding before it can extend jurisdiction.<sup>9</sup> Juvenile jurisdiction ends when a defendant turns 18, unless the court has extended jurisdiction under RCW 13.40.300.<sup>10</sup>

Manro argues that the trial court erred by concluding that RCW 13.40.300 does not permit the adult court to extend juvenile jurisdiction. He maintains that this interpretation of the statute is incorrect and inconsistent with the constitution and international law. First, Manro urges this court to read language into RCW 13.40.300 that authorizes the adult court to extend juvenile jurisdiction. Alternatively, Manro argues that RCW 13.40.300 is unconstitutional because it violates his rights to equal protection and procedural due process.

Manro makes an incorrect assumption about the law. His arguments concerning RCW 13.40.300 are based on his assumption that jurisdiction was defeated under RCW 13.04.030 when the jury acquitted him of first degree assault. He believes that if he had still been 17 years old at that time, his case would have been remanded to juvenile court. No appellate court has decided

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<sup>8</sup> It cannot extend jurisdiction past age 21, however. RCW 13.40.300(c)(3).

<sup>9</sup> RCW 13.40.300(1)(a). The statute allows the court to extend jurisdiction when proceedings are pending, when it is necessary for the imposition of disposition or execution of disposition, and if the court previously extended jurisdiction.

<sup>10</sup> RCW 13.40.300(4).

whether the outcome of the prosecution affects jurisdiction under RCW 13.04.030(1)(e)(v).

Manro cites State v. Mora<sup>11</sup> in support of his position. In Mora, our Supreme Court considered whether the adult court lost jurisdiction when the State amended charges against a defendant to include only non-automatic-transfer offenses.<sup>12</sup> The defendant was originally charged with assault in the second degree with a firearm, which is an enumerated offense under RCW 13.04.030(1)(e)(v), and he was transferred to adult court.<sup>13</sup> The State later amended the charges to possession of a firearm and assault in the third degree in exchange for the defendant stipulating to facts.<sup>14</sup> The latter offenses do not automatically invoke adult court jurisdiction. Rather, the juvenile court must hold a declination hearing before a juvenile defendant is transferred to adult court to be tried on such charges. Mora appealed his adult court conviction, arguing that jurisdiction was no longer appropriate when the State amended the charges. Our Supreme Court agreed. It concluded that "adult court jurisdiction over a juvenile is not irrevocable or absolute,"<sup>15</sup> and noted that it is the nature of the charges, not the charging decision, that dictates adult court jurisdiction.<sup>16</sup>

Unlike Mora, the statutory criteria for exclusive original jurisdiction under RCW 13.04.030(1)(e)(v) were met in this case. The State did not amend the charges against Manro. Rather, he was found not guilty of assault in the first

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<sup>11</sup> 138 Wn.2d 43, 977 P.2d 564 (1999).

<sup>12</sup> Mora, 138 Wn.2d at 48.

<sup>13</sup> RCW 13.04.030(1)(e)(v)(E); Mora, 138 Wn.2d at 46.

<sup>14</sup> Mora, 138 Wn.2d at 47.

<sup>15</sup> Mora, 138 Wn.2d at 53.

<sup>16</sup> Mora, 138 Wn.2d at 52.

degree. Thus, we must first decide whether acquittal of all automatic-transfer offenses defeats adult court jurisdiction under RCW 13.04.030(1)(e)(v).

#### A. RCW 13.04.030(1)(e)(v)

When a statute is ambiguous, we apply principles of statutory construction, legislative history, and relevant case law, giving effect to the Legislature's intent.<sup>17</sup> But when the plain language of a statute is clear on its face, we do not engage in rules of statutory interpretation. We interpret statutory language in context of the entire statute and its purpose, and avoid strained interpretations.<sup>18</sup> Where possible, however, we will interpret a statute as constitutional.<sup>19</sup>

RCW 13.04.030 is clear on its face. While some jurisdictions have adopted statutes that provide procedures upon acquittal of all automatic-transfer charges,<sup>20</sup> RCW 13.04.030 is silent on this issue. But its wording indicates that it

<sup>17</sup> Yousoufian v. Office of Ron Sims, \_\_\_ Wn.2d \_\_\_, 98 P.3d 463, 471 (2004).

<sup>18</sup> City of Seattle v. Clark-Munoz, 152 Wn.2d 39, 43-44, 93 P.3d 141 (2004).

<sup>19</sup> Public Utility Dist. No. 1 v. Dep't of Ecology, 146 Wn.2d 778, 834-35, 51 P.3d 744 (2002) (citing State v. Furman, 122 Wn.2d 440, 458, 858 P.2d 1092 (1993); Grant v. Spellman, 99 Wn.2d 815, 827, 664 P.2d 1227 (1983); State v. Collins, 55 Wn.2d 469, 470, 348 P.2d 214 (1960); State ex rel. Davis v. Clausen, 160 Wash. 618, 632, 295 P. 751 (1931)).

<sup>20</sup> E.g., 18 U.S.C.A. § 5032 (requiring that further proceedings against a juvenile be held pursuant to the juvenile delinquency statute whenever a juvenile "is not convicted of the crime upon which the transfer [to district court] was based or another crime which would have warranted transfer"); Or. Rev. Stat. § 419C.361 (providing that if "the person is found guilty of any lesser included offense that is not itself a waivable offense, the trial court shall not sentence the defendant therein, but the trial court shall order a presentence report to be made in the case, shall set forth in a memorandum such observations as the court may make regarding the case and shall then return the case to the juvenile court in order that the juvenile court make disposition in the case based upon the guilty

is the nature of the charge which justifies adult court jurisdiction. It states, "the juvenile courts in this state shall have exclusive original jurisdiction . . . unless . . . [t]he juvenile is sixteen or seventeen years old and the alleged offense is [a] serious violent offense as defined in RCW 9.94A.030 . . . ." <sup>21</sup> Use of the word "alleged" indicates that our Legislature intended the charge, not the final outcome, to dictate the proper court jurisdiction. <sup>22</sup> The Legislature's silence regarding alternative procedures upon acquittal of all automatic-transfer charges also indicates that the outcome of the prosecution has no affect on jurisdiction.

This interpretation is consistent with one of the purposes behind the Juvenile Justice Act, which is to "[p]rovide for a clear policy . . . to determine the jurisdictional limitations of the courts." <sup>23</sup> If the Legislature intended the outcome of the prosecution to dictate jurisdiction, then adult court jurisdiction would be provisional throughout the prosecution. This does not harmonize with the Legislature's intent to clearly delineate jurisdictional boundaries. Nor does it mesh with one of its objectives for adopting the automatic-transfer provision,

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finding in the court of waiver"); Conn. Gen. Stat. § 46b-127(c) (providing that if a "child is found not guilty of the charge for which he was transferred or of any lesser included offenses," the child resume his status as a juvenile).

<sup>21</sup> RCW 13.04.030(1)(e)(v)(A) (emphasis added).

<sup>22</sup> Colorado courts have adopted the same interpretation of "alleged," reasoning the words "charged" and "alleged" demonstrate that "the [Colorado Legislature] intended the Indictment, and not the subsequent conviction, to trigger the allocation of juvenile and district court jurisdiction." Further, "jurisdiction is not lost simply because the juvenile defendant is convicted of a lesser offense." People v. Davenport, 602 P.2d 871, 872 (Colo. App. 1979) (citing Gray v. State, 6 Md.App. 677, 253 A.2d 395 (1969)); People v. Hughes, 946 P.2d 509 (Colo. App. 1997) (overruled on other grounds).

<sup>23</sup> RCW 13.40.010(2)(j); State v. Cirkovich, 41 Wn. App. 275, 279, 703 P.2d 1075 (1985) (noting that "one of the express purposes of the Act as stated in RCW 13.40.010(2)(j) is to provide clear policy as to jurisdiction").

which was to reduce the fiscal impact of violence.<sup>24</sup> Valuable court time and money would be wasted if adult court jurisdiction was deemed improper after a full trial.

Thus, RCW 13.04.030 is clear on its face—jurisdiction attaches when certain enumerated offenses are charged. The outcome of the prosecution has no effect on jurisdiction. The plain language of the statute, coupled with the Legislature's objectives, leaves no room for a different interpretation.<sup>25</sup>

### B. Constitutional Challenges

Because Manro incorrectly assumed the acquittal of first degree assault defeated adult court jurisdiction, he did not question the constitutionality of RCW 13.04.030. Rather, he only challenged the constitutionality of RCW 13.40.300. Regardless, RCW 13.04.030 is constitutional.

In In re Boot,<sup>26</sup> Justice Alexander noted in a concurring opinion that the application of RCW 13.04.030 may cause two defendants of the same age, who commit the same crimes, to suffer different punishment.<sup>27</sup> This is, in fact, the circumstance in which Manro finds himself. He is being punished more severely than would be a defendant of the same age, who was found guilty of two counts of fourth degree assault in juvenile court.

Nevertheless, equal protection does not ensure complete equality among individuals or classes. Rather, it ensures equal application of the laws to persons

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<sup>24</sup> Laws of 1994, 1st Sp. Sess., ch. 7, § 101, at 2197-98.

<sup>25</sup> Further, Manro's argument that the statute be read in compliance with international law is unavailing. We will not misconstrue a constitutional statute in order to comply with principles under international law.

<sup>26</sup> 130 Wn.2d 553, 925 P.2d 964 (1996).

<sup>27</sup> Boot, 130 Wn.2d at 577-78 (Alexander, J., concurring).

similarly situated.<sup>28</sup> Our Supreme Court has held that initially sending two 16- or 17-year-old defendants to different courts based on the nature of the charges against them is constitutional.<sup>29</sup> Two juveniles are no longer similarly situated once they are sent on different paths, one in adult court and the other in juvenile. Thus, we do not engage in an equal protection analysis.

Manro also argues that "to prohibit the extension of juvenile jurisdiction over non-auto-decline offenses would be to approve of the transfer of such offenses to adult court without a decline hearing, in violation of the due process clause." But our Supreme Court has held that when a defendant is charged with an automatic transfer offense, the adult court is vested with exclusive jurisdiction over all charges against the defendant.<sup>30</sup> Because Manro was properly tried in adult court under RCW 13.04.030(1)(e)(v), he was not entitled to a declination hearing under RCW 13.40.110. Therefore, he was not deprived of procedural due process.<sup>31</sup>

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<sup>28</sup> State v. Simmons, \_\_\_ Wn.2d \_\_\_, 98 P.3d 789, 793 (2004).

<sup>29</sup> Boot, 130 Wn.2d at 572, 574.

<sup>30</sup> Salavea, 151 Wn.2d at 141 n.3; Boot, 130 Wn.2d at 575; Sharon, 100 Wn.2d at 231.

<sup>31</sup> Even if jurisdiction was improper, Manro would not be deprived of due process. When the adult court improperly exercises jurisdiction over a defendant, but he has since turned 18, the appropriate remedy is to hold a Dillenburg hearing in adult court. Dillenburg, 70 Wn.2d at 355-56; State v. Anderson, 83 Wn. App. 515, 522, 922 P.2d 163 (1996). The court holds a Dillenburg hearing to determine whether jurisdiction would have been appropriate after a declination hearing. It offers the same constitutional guarantees as a declination hearing. Dillenburg, 70 Wn.2d at 355. If jurisdiction is deemed improper after a Dillenburg hearing, a conviction will be vacated and the defendant retried in adult court. Dillenburg, 70 Wn.2d at 355-56.

AFFIRMED.

/s/ BAKER, J.

WE CONCUR:

/s/ KENNEDY, J.

/s/ GROSSE, J.

Exhibit 3

# THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

MONTGOMERY A. MANRO,

Petitioner.

NO. 76707-6

**ORDER**

C/A NO. 52013-0-I

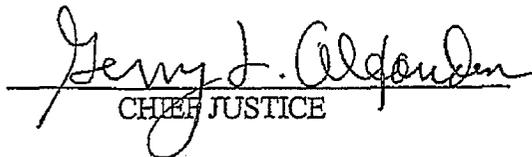
Department I of the Court, composed of Chief Justice Alexander and Justices C. Johnson, Sanders, Chambers and Fairhurst (Justice J.M. Johnson sat for Justice Sanders), considered this matter at its October 5, 2005, Motion Calendar, and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petition for Review is denied.

DATED at Olympia, Washington this 5<sup>th</sup> day of October, 2005.

For the Court

  
CHIEF JUSTICE

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
OCT 10 2005  
CLERK OF COURT  
OLYMPIA

481/93

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

MONTGOMERY A. MANRO,

Appellant.

No. 52013-0-1

MANDATE

King County

Superior Court No. 02-1-03980-1.SEA

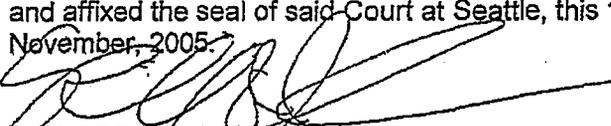
THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for King County.

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division I, filed on January 10, 2005, became the decision terminating review of this court in the above entitled case on November 18, 2005. An order denying a petition for review was entered in the Supreme Court on October 5, 2005. This case is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the decision.

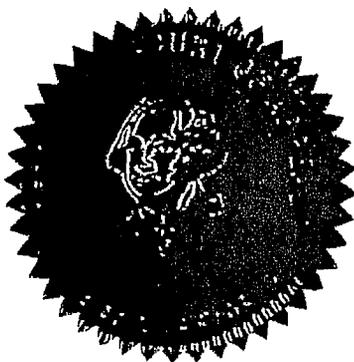
Pursuant to RAP 14.4, attorney fees in the amount of \$5524.75 are awarded in favor of judgment creditor WASHINGTON OFFICE OF PUBLIC DEFENSE and costs in the amount of \$56.17 are awarded in favor of judgment creditor KING COUNTY PROSECUTING ATTORNEY against judgment MONTGOMERY MANRO.

c: Neil Fox  
Michael Iaria  
Andrea Vitalich- KCPA  
Hon. Richard Jones  
Indeterminate Sentencing Review Board

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Seattle, this 18th day of November, 2005.

  
RICHARD D. JOHNSON

Court Administrator/Clerk of the Court of Appeals  
State of Washington, Division I.



RECEIVED  
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COHEN & IARIA

Exhibit 4

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2061

Chapter 238, Laws of 2005

59th Legislature  
2005 Regular Session

JUVENILE COURTS--JURISDICTION

EFFECTIVE DATE: 7/24/05

Passed by the House March 9, 2005  
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2005  
Yeas 42 Nays 0

BRAD OWEN

President of the Senate

Approved April 28, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2061 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 28, 2005 - 4:16 p.m.

Secretary of State  
State of Washington

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SUBSTITUTE HOUSE BILL 2061

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Passed Legislature - 2005 Regular Session

State of Washington                      59th Legislature                      2005 Regular Session

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Moeller and Dickerson)

READ FIRST TIME 03/04/05.

1            AN ACT Relating to requiring disposition to be held in juvenile  
2 court in certain circumstances when a case is automatically transferred  
3 to adult court; and amending RCW 13.04.030 and 13.40.300.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            Sec. 1. RCW 13.04.030 and 2000 c 135 s 2 are each amended to read  
6 as follows:

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

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

11            (b) Relating to children alleged or found to be dependent as  
12 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

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

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

17            (e) Relating to juveniles alleged or found to have committed  
18 offenses, traffic or civil infractions, or violations as provided in  
19 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:  
12 PROVIDED, That if such an alleged offense or infraction and an alleged  
13 offense or infraction subject to juvenile court jurisdiction arise out  
14 of the same event or incident, the juvenile court may have jurisdiction  
15 of both matters: PROVIDED FURTHER, That the jurisdiction under this  
16 subsection does not constitute "transfer" or a "decline" for purposes  
17 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,  
18 That courts of limited jurisdiction which confine juveniles for an  
19 alleged offense or infraction may place juveniles in juvenile detention  
20 facilities under an agreement with the officials responsible for the  
21 administration of the juvenile detention facility in RCW 13.04.035 and  
22 13.20.060;

23 (iv) The alleged offense is a traffic or civil infraction, a  
24 violation of compulsory school attendance provisions under chapter  
25 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has  
26 assumed concurrent jurisdiction over those offenses as provided in RCW  
27 13.04.0301; or

28 (v) The juvenile is sixteen or seventeen years old and the alleged  
29 offense is:

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

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

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

3 (D) Burglary in the first degree committed on or after July 1,  
4 1997, and the juvenile has a criminal history consisting of one or more  
5 prior felony or misdemeanor offenses; or

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

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

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

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

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

33 (g) Relating to termination of a diversion agreement under RCW  
34 13.40.080, including a proceeding in which the divertee has attained  
35 eighteen years of age;

36 (h) Relating to court validation of a voluntary consent to an out-  
37 of-home placement under chapter 13.34 RCW, by the parent or Indian  
38 custodian of an Indian child, except if the parent or Indian custodian

1 and child are residents of or domiciled within the boundaries of a  
2 federally recognized Indian reservation over which the tribe exercises  
3 exclusive jurisdiction;

4 (i) Relating to petitions to compel disclosure of information filed  
5 by the department of social and health services pursuant to RCW  
6 74.13.042; and

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

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

16 (3) The juvenile court shall have concurrent original jurisdiction  
17 with the family court over child custody proceedings under chapter  
18 26.10 RCW as provided for in RCW 13.34.155.

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

23 **Sec. 2.** RCW 13.40.300 and 2000 c 71 s 2 are each amended to read  
24 as follows:

25 (1) In no case may a juvenile offender be committed by the juvenile  
26 court to the department of social and health services for placement in  
27 a juvenile correctional institution beyond the juvenile offender's  
28 twenty-first birthday. A juvenile may be under the jurisdiction of the  
29 juvenile court or the authority of the department of social and health  
30 services beyond the juvenile's eighteenth birthday only if prior to the  
31 juvenile's eighteenth birthday:

32 (a) Proceedings are pending seeking the adjudication of a juvenile  
33 offense and the court by written order setting forth its reasons  
34 extends jurisdiction of juvenile court over the juvenile beyond his or  
35 her eighteenth birthday;

36 (b) The juvenile has been found guilty after a fact finding or

1 after a plea of guilty and an automatic extension is necessary to allow  
2 for the imposition of disposition; ((e))

3 (c) Disposition has been held and an automatic extension is  
4 necessary to allow for the execution and enforcement of the court's  
5 order of disposition. If an order of disposition imposes commitment to  
6 the department, then jurisdiction is automatically extended to include  
7 a period of up to twelve months of parole, in no case extending beyond  
8 the offender's twenty-first birthday; or

9 (d) While proceedings are pending in a case in which jurisdiction  
10 has been transferred to the adult criminal court pursuant to RCW  
11 13.04.030, the juvenile turns eighteen years of age and is subsequently  
12 found not guilty of the charge for which he or she was transferred, or  
13 is convicted in the adult criminal court of a lesser included offense,  
14 and an automatic extension is necessary to impose the disposition as  
15 required by RCW 13.04.030(1)(e)(v)(E).

16 (2) If the juvenile court previously has extended jurisdiction  
17 beyond the juvenile offender's eighteenth birthday and that period of  
18 extension has not expired, the court may further extend jurisdiction by  
19 written order setting forth its reasons.

20 (3) In no event may the juvenile court have authority to extend  
21 jurisdiction over any juvenile offender beyond the juvenile offender's  
22 twenty-first birthday except for the purpose of enforcing an order of  
23 restitution or penalty assessment.

24 (4) Notwithstanding any extension of jurisdiction over a person  
25 pursuant to this section, the juvenile court has no jurisdiction over  
26 any offenses alleged to have been committed by a person eighteen years  
27 of age or older.

Passed by the House March 9, 2005.  
Passed by the Senate April 12, 2005.  
Approved by the Governor April 28, 2005.  
Filed in Office of Secretary of State April 28, 2005.

Exhibit 5

Juvenile Justice & Family Law  
Committee

HB 2061

**Brief Description:** Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Sponsors:** Representatives Darneille, Moeller and Dickerson.

Brief Summary of Bill

- Requires a case that was automatically transferred to adult court be returned to juvenile court for disposition if the juvenile is convicted of an offense that was not one requiring automatic transfer of jurisdiction, or if the juvenile was convicted of a lesser included offense.

**Hearing Date:** 2/23/05

**Staff:** Sonja Hallum (786-7092).

**Background:**

In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case may be transferred to adult court through an automatic transfer procedure which permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case may be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is:

- (1) a serious violent offense; or
- (2) a violent offense and the offender has a criminal history consisting 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 the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which

must have been committed after the juvenile's 13th birthday and prosecuted separately.

If a case is automatically transferred to the adult court, and the prosecutor reduces the charge to an offense that does not require automatic transfer of jurisdiction, the case must be returned to juvenile court where all further proceedings will be held.

However, in a recent Washington Court of Appeals case, *State v. Manro*, the court found the juvenile automatic transfer of jurisdiction statute required that if a person was found not guilty of the charge that was the basis of the automatic transfer, but was found guilty of a second count that was not an automatic transfer charge, or if the person were found guilty of a lesser included offense, then the case would not be sent to juvenile court for disposition. Instead, the adult court would retain jurisdiction regardless of whether the offense for which the juvenile was convicted was one requiring automatic transfer.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

**Summary of Bill:**

If a juvenile offender case is transferred to adult court pursuant to the automatic transfer of jurisdiction statute and the juvenile is then found not guilty in the adult criminal court of the charge for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense, the case will be returned to juvenile court for the disposition of the case.

If the juvenile has turned eighteen years of age during the adult criminal court proceedings, the juvenile court must enter an order extending juvenile court jurisdiction.

**Appropriation:** None.

**Fiscal Note:** Requested on February 18, 2005.

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

# HOUSE BILL REPORT

## HB 2061

As Reported by House Committee On:  
Juvenile Justice & Family Law

**Title:** An act relating to requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Brief Description:** Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Sponsors:** Representatives Darneille, Moeller and Dickerson.

**Brief History:**

**Committee Activity:**

Juvenile Justice & Family Law: 2/23/05, 3/1/05 [DPS].

### Brief Summary of Substitute Bill

- Requires a case that was automatically transferred to adult court be returned to juvenile court for disposition if the juvenile is convicted of an offense that was not one requiring automatic transfer of jurisdiction, or if the juvenile was convicted of a lesser included offense.

### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse, Lovick and Roberts.

**Staff:** Sonja Hallum (786-7092).

#### Background:

In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case may be transferred to adult court through an automatic transfer procedure which permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case may be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is a:

- (1) serious violent offense; or
- (2) violent offense and the offender has a criminal history consisting 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 the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

If a case is automatically transferred to the adult court, and the prosecutor reduces the charge to an offense that does not require automatic transfer of jurisdiction, the case must be returned to juvenile court where all further proceedings will be held.

However, in a recent Washington Court of Appeals case, *State v. Manro*, the court found the juvenile automatic transfer of jurisdiction statute required that if a person was found not guilty of the charge that was the basis of the automatic transfer, but was found guilty of a second count that was not an automatic transfer charge, or if the person were found guilty of a lesser included offense, then the case would not be sent to juvenile court for disposition. Instead, the adult court would retain jurisdiction regardless of whether the offense for which the juvenile was convicted was one requiring automatic transfer.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

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#### Summary of Substitute Bill:

If a juvenile offender case is transferred to adult court pursuant to the automatic transfer of jurisdiction statute, and the juvenile is then charged with multiple counts in adult court and found not guilty in the adult criminal court of the charge for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not one requiring automatic transfer, the case will be returned to juvenile court for the disposition of the case.

If the juvenile has turned 18 years of age during the adult criminal court proceedings, the juvenile court must enter an order extending juvenile court jurisdiction.

#### Substitute Bill Compared to Original Bill:

The substitute clarifies that if the juvenile is found not guilty of the charge for which he or she was transferred, the juvenile court will have jurisdiction over any remaining charges for purposes of disposition.

The substitute also clarifies that if the juvenile is convicted of a lesser included offense that is also an offense that would require automatic transfer of jurisdiction, the offense will not be returned to juvenile court for sentencing.

However, if a case is returned to juvenile court for sentencing purposes, the substitute states that juvenile court is permitted to hold a decline hearing and send the case back to adult court for sentencing if it is appropriate.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** (In support) With the current interpretation of the law the juvenile might be convicted and sentenced in adult court on a charge that wasn't one that originally required transfer. We want to provide clarifying information to the court to send these cases back to juvenile court. The bill clarifies what a lot of people thought was the law. We don't want kids convicted of offenses as adults for crimes that never even required transfer. People were shocked by the court case that interpreted the statute to require this result.

(With concerns) We thought this was the law, but would like an amendment to clarify that the juvenile court can still decline jurisdiction.

**Testimony Against:** None.

**Persons Testifying:** (In support) George Yeannakis, Washington Defenders Association; and Martha Harden-Cesar, Superior Court Judges.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.

HB 2061 - DIGEST

(SUBSTITUTED FOR - SEE 1ST SUB)

Requires disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

Provides that if the juvenile is found not guilty in the adult criminal court of the charge for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense, the juvenile court shall have exclusive jurisdiction over the disposition of the case. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300.

(DIGEST AS ENACTED)

Requires disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

Provides that the juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in this act. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300.

Provides that, however, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

Provides that, while proceedings are pending in a case in which jurisdiction has been transferred to the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense, and an automatic extension is necessary to impose the disposition as required by RCW 13.04.030(1)(e)(v)(E).

# SENATE BILL REPORT

## SHB 2061

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As Reported By Senate Committee On:  
Human Services & Corrections, March 31, 2005

**Title:** An act relating to requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Brief Description:** Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Sponsors:** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Moeller and Dickerson).

**Brief History:** Passed House: 3/09/05, 96-0.

**Committee Activity:** Human Services & Corrections: 3/21/05, 3/31/05 [DP, w/oRec].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, McAuliffe and Thibaudeau.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Carrell.

**Staff:** Kiki Keizer (786-7430)

**Background:** Generally, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with criminal offenses. However, if a juvenile is 16 or 17 years old, and the alleged offense is one of the violent offenses specified by statute, then the juvenile's case is automatically transferred, and the adult criminal court has exclusive original jurisdiction.

The Court of Appeals of Washington recently ruled on a case that was automatically transferred to adult criminal court. At trial in the adult criminal court, the defendant was found not guilty of the charge that triggered the automatic transfer (Assault I). However, the defendant was found guilty of a charge that would not have caused automatic transfer (Assault IV). On appeal, the court determined that the adult court was not required to remand the case to juvenile court for disposition, based upon the not guilty verdict on Assault I charge.

**Summary of Bill:** If a case involving a 16 or 17 year old is automatically transferred to adult criminal court because the defendant has committed one of the offenses requiring automatic transfer, and later the juvenile is not found guilty of any charge that would qualify for automatic transfer to the adult criminal court, then the juvenile court must have exclusive jurisdiction over the disposition in that case.

If the juvenile is not found guilty of a charge that would qualify for automatic transfer to the adult criminal court, and the juvenile turned 18 years of age during the course of the adult criminal court proceedings, then the court must order an extension of the juvenile court's jurisdiction.

Once the case is returned to juvenile court, the juvenile court may hold a decline hearing to determine whether to retain the case or to return the case to adult criminal court for sentencing.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Keeping juveniles in the juvenile system allows creative intervention at the juvenile justice level. The bill corrects the courts' misinterpretation of the existing statute.

Testimony Against: None.

Who Testified: PRO: Representative Jeannie Darneille, prime sponsor; George Yeannakis, Washington Defenders Association.

# HOUSE BILL REPORT

## SHB 2061

### As Passed Legislature

**Title:** An act relating to requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Brief Description:** Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Sponsors:** By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Moeller and Dickerson).

#### Brief History:

##### Committee Activity:

Juvenile Justice & Family Law: 2/23/05, 3/1/05 [DPS].

##### Floor Activity:

Passed House: 3/9/05, 96-0.

Passed Senate: 4/12/05, 42-0.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Requires a case that was automatically transferred to adult court be returned to juvenile court for disposition if the juvenile is convicted of an offense that was not one requiring automatic transfer of jurisdiction, or if the juvenile was convicted of a lesser included offense.

### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse, Lovick and Roberts.

**Staff:** Sonja Hallum (786-7092).

#### Background:

In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case may be transferred to adult court through an automatic transfer procedure which permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case may be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is a:

- (1) serious violent offense; or
- (2) violent offense and the offender has a criminal history consisting 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 the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

If a case is automatically transferred to the adult court, and the prosecutor reduces the charge to an offense that does not require automatic transfer of jurisdiction, the case must be returned to juvenile court where all further proceedings will be held.

However, in a recent Washington Court of Appeals case, *State v. Marro*, the court found the juvenile automatic transfer of jurisdiction statute requires that if a person is found not guilty of the charge that was the basis of the automatic transfer, but is found guilty of a second count that was not an automatic transfer charge, or if the person were found guilty of a lesser included offense, then the case would not be sent to juvenile court for disposition. Instead, the adult court would retain jurisdiction regardless of whether the offense for which the juvenile was convicted was one requiring automatic transfer.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

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#### Summary of Substitute Bill:

If a juvenile offender case is transferred to adult court pursuant to the automatic transfer of jurisdiction statute, and the juvenile is then charged with multiple counts in adult court and found not guilty in the adult criminal court of the charge for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not one requiring automatic transfer, the case will be returned to juvenile court for the disposition of the case.

If the juvenile has turned 18 years of age during the adult criminal court proceedings, the juvenile court must enter an order extending juvenile court jurisdiction.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (In support) With the current interpretation of the law the juvenile might be convicted and sentenced in adult court on a charge that wasn't one that originally required transfer. We want to provide clarifying information to the court to send these cases back to juvenile court. The bill clarifies what a lot of people thought was the law. We don't want kids convicted of offenses as adults for crimes that never even required transfer. People were shocked by the court case that interpreted the statute to require this result.

(With concerns) We thought this was the law, but would like an amendment to clarify that the juvenile court can still decline jurisdiction.

Testimony Against: None.

Persons Testifying: (In support) George Yeannakis, Washington Defenders Association; and Martha Harden-Cesar, Superior Court Judges.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.

# FINAL BILL REPORT

## SHB 2061

C 238 L 05  
Synopsis as Enacted

**Brief Description:** Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

**Sponsors:** By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Moeller and Dickerson).

House Committee on Juvenile Justice & Family Law  
Senate Committee on Human Services & Corrections

### Background:

In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case must be transferred to adult court through an automatic transfer procedure that permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case may be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is a:

- serious violent offense; or
- violent offense and the offender has a criminal history consisting of:
  - one or more prior serious violent offenses;
  - two or more prior violent offenses; or
  - three or more of any combination of the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

If a case is automatically transferred to the adult court, and the prosecutor reduces the charge to an offense that does not require automatic transfer of jurisdiction, the case must be returned to juvenile court, where all further proceedings will be held.

However, in a recent Washington Court of Appeals case, *State v. Manro*, the court found the juvenile automatic transfer of jurisdiction statute requires that if a person is found not guilty of the charge that was the basis of the automatic transfer, but is found guilty of a second count that was not an automatic transfer charge, or if the person were found guilty of a lesser included offense, the case would not be sent to juvenile court for disposition. Instead, the

adult court would retain jurisdiction regardless of whether the offense for which the juvenile was convicted was one requiring automatic transfer.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

**Summary:**

If a juvenile offender case is transferred to adult court pursuant to the automatic transfer of jurisdiction statute, and the juvenile is then charged with multiple counts in adult court, the case will be returned to juvenile court for disposition if the juvenile is found not guilty in the adult criminal court of the charge for which he or she was transferred or is convicted in the adult criminal court of a lesser included offense that is not one requiring automatic transfer.

If the juvenile has turned 18 years of age during the adult criminal court proceedings, the juvenile court must enter an order extending juvenile court jurisdiction.

**Votes on Final Passage:**

House	96	0
Senate	42	0

**Effective: July 24, 2005**

