

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 982, Page 45,
2 Section 201.1080, Line 207, by inserting after all of said section and line the following:
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4 "211.071. 1. If a petition alleges that a child between the ages of ~~twelve~~ sixteen and eighteen has
5 committed an offense which would be considered a felony if committed by an adult, the court may, upon its
6 own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and
7 may, in its discretion, dismiss the petition and such child may be transferred to the court of general
8 jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has
9 committed an offense which would be considered first degree murder under section 565.020, second degree
10 murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030
11 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under
12 section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first
13 degree robbery under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree
14 under section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or
15 the manufacturing of a controlled substance under section 579.055, or has committed two or more prior
16 unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may
17 in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution
18 under the general law.

19 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any
20 person between eighteen and twenty-one years of age over whom the juvenile court has retained continuing
21 jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general
22 jurisdiction as provided in section 211.041.

23 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or
24 proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time
25 in which a child misrepresents his or her age may be used against the child and will be subject only to rules of
26 evidence applicable in adult proceedings.

27 4. Written notification of a transfer hearing shall be given to the juvenile and his or her custodian in
28 the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the
29 custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child
30 is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the
31 child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be
32 dismissed to allow for prosecution of the child under the general law.

33 5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense
34 for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall
35 have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all
36 other records or reports relating to the offense alleged to have been committed by the child. The prosecuting
37 or circuit attorney shall have access to the disposition records of the child when the child has been
38 adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not
39 divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has
40 determined that the child is not a proper subject to be dealt with under the provisions of this chapter.

Action Taken _____ Date _____

1 6. A written report shall be prepared in accordance with this chapter developing fully all available
2 information relevant to the criteria which shall be considered by the court in determining whether the child is
3 a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable
4 prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited
5 to:

- 6 (1) The seriousness of the offense alleged and whether the protection of the community requires
7 transfer to the court of general jurisdiction;
- 8 (2) Whether the offense alleged involved viciousness, force and violence;
- 9 (3) Whether the offense alleged was against persons or property with greater weight being given to
10 the offense against persons, especially if personal injury resulted;
- 11 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the
12 child may be beyond rehabilitation under the juvenile code;
- 13 (5) The record and history of the child, including experience with the juvenile justice system, other
14 courts, supervision, commitments to juvenile institutions and other placements;
- 15 (6) The sophistication and maturity of the child as determined by consideration of his or her home
16 and environmental situation, emotional condition and pattern of living;
- 17 (7) The age of the child;
- 18 (8) The program and facilities available to the juvenile court in considering disposition;
- 19 (9) Whether or not the child can benefit from the treatment or rehabilitative programs available to
20 the juvenile court; and
- 21 (10) Racial disparity in certification.

22 7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the
23 court shall enter a dismissal order containing:

- 24 (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- 25 (2) Findings showing that the child was represented by counsel;
- 26 (3) Findings showing that the hearing was held in the presence of the child and his or her counsel;
- 27 and
- 28 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

29 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

30 9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general
31 law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that
32 child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a
33 violation of a state law or municipal ordinance.

34 10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law
35 and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction
36 over any later offense committed by that child which would be considered a misdemeanor or felony if
37 committed by an adult, subject to the certification provisions of this section.

38 11. If the court does not dismiss the petition to permit the child to be prosecuted under the general
39 law, it shall set a date for the hearing upon the petition as provided in section 211.171."; and

40
41 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.