

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 186, Pages 3-5, Section 211.031, Lines 1-
2 93, by deleting all of said section and lines and inserting in lieu thereof the following:
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4 "211.071. 1. If a petition alleges that a child between the ages of twelve and eighteen has
5 committed an offense which would be considered a felony if committed by an adult, the court may,
6 upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order
7 a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the
8 court of general jurisdiction and prosecuted under the general law; except that if a petition alleges
9 that any child has committed an offense which would be considered first degree murder under
10 section 565.020, second degree murder under section 565.021, first degree assault under section
11 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first
12 degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August
13 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section
14 569.020 as it existed prior to January 1, 2017, ~~[or]~~ robbery in the first degree under section 570.023,
15 distribution of drugs under section 195.211 as it existed prior to January 1, 2017, ~~[or]~~ the
16 manufacturing of a controlled substance under section 579.055, or armed criminal action under
17 section 571.015, or has committed two or more prior unrelated offenses which would be felonies if
18 committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition
19 and transfer the child to a court of general jurisdiction for prosecution under the general law.

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

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

28 4. Written notification of a transfer hearing shall be given to the juvenile and his or her
29 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing
30 may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is

Action Taken _____ Date _____

1 to determine whether the child is a proper subject to be dealt with under the provisions of this
2 chapter, and that if the court finds that the child is not a proper subject to be dealt with under the
3 provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under
4 the general law.

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

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

19 (1) The seriousness of the offense alleged and whether the protection of the community
20 requires transfer to the court of general jurisdiction;

21 (2) Whether the offense alleged involved viciousness, force and violence;

22 (3) Whether the offense alleged was against persons or property with greater weight being
23 given to the offense against persons, especially if personal injury resulted;

24 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates
25 that the child may be beyond rehabilitation under the juvenile code;

26 (5) The record and history of the child, including experience with the juvenile justice
27 system, other courts, supervision, commitments to juvenile institutions and other placements;

28 (6) The sophistication and maturity of the child as determined by consideration of his or her
29 home and environmental situation, emotional condition and pattern of living;

30 (7) The age of the child;

31 (8) The program and facilities available to the juvenile court in considering disposition;

32 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
33 available to the juvenile court; and

34 (10) Racial disparity in certification.

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

37 (1) Findings showing that the court had jurisdiction of the cause and of the parties;

38 (2) Findings showing that the child was represented by counsel;

1 (3) Findings showing that the hearing was held in the presence of the child and his or her
2 counsel; and

3 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

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

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

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

14 11. If the court does not dismiss the petition to permit the child to be prosecuted under the
15 general law, it shall set a date for the hearing upon the petition as provided in section 211.171."; and
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17 Further amend said bill, Page 26, Section 571.070, Lines 5-10, by deleting said lines and inserting in
18 lieu thereof the following:

19 "would be a felony; or

20 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged
21 condition, or is currently adjudged mentally incompetent."; and
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23
24 Further amend said bill by amending the title, enacting clause, and intersectional references
25 accordingly.