

HOUSE AMENDMENT NO. _____
TO
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Offered By

AMEND House Amendment No. _____ to House Committee Substitute for Senate Bill No. 186,
Page 1, Line 4, by deleting said line and inserting in lieu thereof the following:

""211.071. 1. If a petition or motion to modify alleges that a child between the ages of twelve and eighteen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition or motion to modify and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or the manufacturing of a controlled substance under section 579.055, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition or motion to modify and transfer the child to a court of general jurisdiction for prosecution under the general law.

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

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

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

Action Taken _____ Date _____

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

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

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

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

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

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

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

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

26 (7) The age of the child;

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

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

30 (10) Racial disparity in certification.

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

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

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

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

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

38 8. A copy of the petition or motion to modify and order of the dismissal shall be sent to the
39 prosecuting attorney.

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

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

1 11. If the court does not dismiss the petition or motion to modify to permit the child to be
2 prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in
3 section 211.171.

4 211.436. 1. Instruments of restraint, including handcuffs, chains, irons, or straitjackets"; and

5
6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.

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9 THIS AMENDMENT AMENDS 0436H02.75H.