

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

---

DIGEST

SB 409 Original

2022 Regular Session

Connick

Present law provides that when a child is 15 years of age or older and commits first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the juvenile court until either an indictment is returned or the juvenile court holds a continued custody hearing and finds probable cause that the child committed one of these offenses. Present law provides that thereafter, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction.

Proposed law deletes present law.

Present law provides that when a child is 15 years of age or older and commits attempted first degree murder, attempted second degree murder, manslaughter, armed robbery, aggravated burglary, forcible or second degree rape, simple or third degree rape, second degree kidnapping, aggravated battery committed with a firearm, a second or subsequent aggravated battery, a second or subsequent aggravated burglary, a second or subsequent burglary of an inhabited dwelling, or a second or subsequent felony-grade violation of the Uniform Controlled Dangerous Substances Law involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances, he is subject to the exclusive jurisdiction of the juvenile court until the first of either the return of an indictment or the juvenile court finds probable cause that the child committed one of these offenses and a bill of information is filed. Present law further provides that the district attorney has the discretion to file a petition alleging any of these offenses in the juvenile court or obtain an indictment or file a bill of information. Present law further provides that if an indictment is returned or bill of information filed, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures.

Proposed law deletes present law.

Present law provides that if an indictment is returned, the juvenile court is fully divested from jurisdiction to adjudicate the matter before the court.

Proposed law deletes present law and provides that if a child between 15 and 18 has committed any of the enumerated present law offenses, and the district attorney has filed a petition, the court has discretion to retain or dismiss the petition and transfer the child to a court of appropriate criminal jurisdiction for prosecution. Proposed law further provides that the district attorney must file the petition, indictment, or bill of information within 30 days of the child's arrest, if the child remains in detention. Proposed law further provides that if a child misrepresents his age, it would have no effect on the prosecution of the child.

Proposed law provides that the juvenile court officer may consult with the district attorney, and the

district attorney must have access to all documentation relative to the offense and prior offenses committed by the juvenile.

Proposed law requires that a written report be prepared providing all information relative to the court in determining whether there are reasonable prospects of rehabilitation within the juvenile justice system. Those factors include the seriousness of the offense and community safety, whether the offense involved viciousness, force, or violence on the part of the juvenile, whether the offense was against a person or property, and if personal injury resulted, whether the offense was part of a repetitive pattern, the record and history of the child, the sophistication and maturity of the child, the age of the child, the programs and facilities available in the juvenile justice system, whether the child would benefit from treatment, and racial disparity in certification.

Proposed law provides that the court is authorized to impose both a juvenile and adult sentence for disposition. The execution of the adult sentence is suspended, and as a condition of the suspension, the juvenile must successfully complete the juvenile sentence. The court may order the juvenile into the custody of the office of juvenile justice, with agreement of the office of juvenile justice and provided there is space available for the juvenile. If the office of juvenile justice agrees to accept the child but the court does not impose a juvenile disposition, the court must make a finding on the record why such a disposition is inappropriate.

Proposed law provides that if there is probable cause for a court to believe that the juvenile violated the terms of his suspended sentence or committed a new offense, the court must hold a hearing, unless the child waives. If the court finds that a violation occurred, the court may revoke the juvenile disposition and impose the adult sentence or enter an order it deems appropriate.

Proposed law provides that if the office of juvenile justice finds that the child is beyond the scope of the treatment programs, it may petition the court for a transfer of custody of the offender. The court must hold a hearing and determine if a transfer of custody is appropriate.

Proposed law provides that when the child reaches the age of 18, the court must hold a hearing to determine continued custody of the juvenile.

Proposed law provides that the office of juvenile justice must petition the court for a hearing before it releases a child under the age of 21. The court must determine whether to revoke the suspended sentence and impose the adult sentence, or place the child on probation.

Proposed law provides that if the suspension of the adult criminal sentence is revoked, the child will be provided jail credit in the adult sentence for all time served under the juvenile disposition.

Effective August 1, 2022.

(Amends Ch.C. Art. 305; adds Ch.C. Art. 897.2)