

GREEN SHEET REDIGEST

HB 70

2021 Regular Session

Thomas

CHILDRENS CODE: Provides relative to amendment of petitions in delinquency proceedings

DIGEST

Present law provides that with leave of court the petitioner may amend the petition at anytime to cure defects of form.

Present law further provides that with leave of court and prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for adjudication.

Present law also provides that if such leave is granted, the child may request a continuance of the adjudication hearing and that continuance may be granted for such a period as is required in the interest of justice.

Proposed law removes the requirement to obtain leave of court to amend the petition or to include new allegations of fact or requests for adjudication.

Proposed law adds imperfection, omission, and uncertainty as grounds for amending a petition in delinquency proceedings.

Proposed law specifies that on the motion of the child that he has been prejudiced in his defense on the merits by defect of form, imperfection, omission, or uncertainty, the court may grant a continuance for a reasonable time.

Proposed law requires the court to consider all circumstances of the case and the entire course of the prosecution in determining whether the child has been prejudiced in his defense on the merits.

(Amends Ch.C. Arts. 635(A) and (B), 750(B),(C), and (D), and 846 (A) and (B); Adds Ch.C. Arts. 635(C), 750(E), and 846(D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes to the citations.
2. Change terminology from "delinquency proceedings" to "certain juvenile proceedings".
3. Amend present law provisions to align with proposed law by adding grounds for amending a petition and requiring the courts to consider certain factors in determining whether a child has been prejudiced in his defense.
4. Remove from present law the court's ability to dismiss a petition on its own motion.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the engrossed bill

1. Delete proposed law that removed from present law the court's ability to dismiss a petition in certain juvenile proceedings on its own motion or motion of the child, parent, caretaker, or guardian.