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## DIGEST

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HB 54 Original

2023 Regular Session

Schlegel

**Abstract:** Provides relative to the time limitations on district attorneys to initiate prosecution of a juvenile as an adult for certain offenses.

Present law (Ch.C. Art. 305(A)(1)) subjects a child who is 15 years of age or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnapping to the exclusive jurisdiction of the juvenile court until either an indictment charging one of these offenses is returned or the juvenile court holds a continued custody hearing pursuant to present law (Ch.C. Arts. 819 and 820) and finds probable cause that he committed one of these offenses.

Proposed law retains present law.

Present law (Ch.C. Art. 305(A)(2)(a)) provides the district attorney with the discretion to file a petition alleging any of the offenses listed in present law (Ch.C. Art. 305(A)(1)) in the juvenile court or, alternatively, to obtain an indictment. Further provides that if the child is being held in detention, the district attorney shall file the petition or indictment in the appropriate court within 30 calendar days after the child's arrest, unless the child waives this right.

Proposed law amends present law to increase the amount of days that the district attorney has to file the petition or indictment from 30 days to 60 days.

Proposed law provides that the failure to institute prosecution as provided in proposed law shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown.

Proposed law provides that if just cause is shown, the court shall reconsider bail for the child. Further provides that the failure to institute prosecution as provided in proposed law shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

Proposed law provides that when the juvenile court holds a continued custody hearing pursuant to present law (Ch.C. Arts. 819 and 820) and finds probable cause that the child committed one of the offenses listed in present law (Ch.C. Art. 305(A)(1)), the time limitations contained in present law are inapplicable and the time period for filing an indictment after arrest shall be governed by other present law (C.Cr.P. Art. 701).

Present law (Ch.C. Art. 305(B)(1)) subjects a child who is 15 years of age or older at the time of any of the offenses listed in present law (Ch.C. Art. 305(B)(2)) to the exclusive jurisdiction of the juvenile court until either an indictment charging one of these offenses is returned or the juvenile court holds a continued custody hearing and finds probable cause that he committed one of these offenses.

Proposed law retains present law.

Present law (Ch.C. Art. 305(B)(3)) provides the district attorney with the discretion to file a petition alleging any of the offenses listed in present law (Ch.C. Art. 305(B)(2)) in the juvenile court or, alternatively, to obtain an indictment. Further provides that if the child is being held in detention, the district attorney shall file the indictment, bill of information, or petition in the appropriate court within 30 calendar days after the child's arrest, unless the child waives this right.

Proposed law amends present law to increase the amount of days that the district attorney has to file the indictment, bill of information, or petition from 30 days to 60 days.

Proposed law provides that the failure to institute prosecution as provided in proposed law shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown.

Proposed law provides that if just cause is shown, the court shall reconsider bail for the child. Further provides that the failure to institute prosecution as provided in proposed law shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

Proposed law shall be cited and referred to as "The Juvenile Transfer Act".

(Amends Ch.C. Art. 305(A)(2) and (B)(3))