

SUBJECT: Adding violent offenses that are punishable by a determinate sentence

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Goodman, A. Reyna, E. Reyna, P. King, Morrison, Tillery

0 nays

3 absent — Menendez, Naishtat, Nixon

SENATE VOTE: On final passage, February 13 — voice vote

WITNESSES: None

BACKGROUND: Under Family Code, sec. 53.045, if a child has engaged in habitual felony conduct or has committed certain Penal Code offenses, including murder, capital murder, aggravated kidnaping, sexual assault, indecency with a child, criminal solicitation of a minor, or arson, the prosecuting attorney may petition the grand jury of the county in which the court in which the petition is filed presides for an adjudication or transfer hearing.

Sec. 54.04(d)(3) states that if a jury finds a child guilty of any of these offenses and assigns a determinate sentence, the child may be sent to the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for up to 10, 20, or 40 years, depending on the offense.

DIGEST: SB 25 would add manslaughter and intoxication manslaughter to the list of offenses for which a petition by the prosecuting attorney for a determinate sentence could be referred to a grand jury in a juvenile justice case.

This bill would take effect September 1, 2001.

SUPPORTERS SAY: Manslaughter and intoxication manslaughter are serious offenses and should be subject to more serious remedies. If a person recklessly causes the death of someone, especially while operating a vehicle while intoxicated, and it is determined that the behavior is habitual, appropriate remedies are necessary.

It would be inappropriate to exempt determinate sentences for manslaughter and intoxication manslaughter from the prohibition against sealing juvenile records of determinate sentences. If a crime is serious enough for a grand jury to impose a determinate sentence, there should be no exemption from the prohibition against sealing the record.

OPPONENTS
SAY:

SB 25 should exclude manslaughter and intoxication manslaughter from the automatic prohibition against sealing records of a person who has received a determinate sentence. The other offenses to which this provision applies are offenses committed with intent. A person commits manslaughter or intoxication manslaughter through reckless behavior or by accident or mistake. Because these offenses are unintentional, it would be more fair to allow the court some discretion in sealing those juvenile records.