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PRESS RELEASE

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A BRIEF EXPLANATION ABOUT THE ‘DETERMINATE SENTENCE’ STATUTE IN JUVENILE CRIMINAL CASES

- What is the "determinate sentencing" statute?

It is a special statute in the Texas Juvenile Code that allows for the possibility of a juvenile serving a sentence beyond the age of 21. It specifically covers certain violent offenses and drug cases, like murder, capital murder, sexual assault, and indecency with a child. Aggravated controlled substances cases are also covered.

- What are the differences in the possible punishment of a "determinate sentencing" case and a non-determining sentencing case?

In a determinate sentencing case, a punishment might be assessed for a term of up to 40 years, which would be served either incarcerated, on probation, or on parole. The actual length of time to be served is determined by the jury or the judge.

In a non-determinate sentencing case, the length of stay at the Texas Youth Commission would be, at the most, until the age of 21. After the age of 21, the juvenile is released regardless of whether the juvenile has been rehabilitated or not.

In a determinate sentencing case, the sentence handed down by the jury must be served regardless of the age of the juvenile. However, while the determinate sentencing statute provides for the possibility of a harsher sentence, it is not mandatory, not even likely, that the jury would hand down a more severe sentence than they would if the case was tried under the "regular" process.

- Who makes the decision about the sentence of the juvenile?

The jury, comprised of members of the community, takes into consideration all of the facts of the case including, but not limited to, the age of the child, his family situation,

his mental health, the nature and circumstances of the crime, the criminal history and the likelihood of his rehabilitation,

- **Does the decision to seek a determinate sentencing in a case mean that the County Attorney believes that the accused minor cannot be rehabilitated?**

No. It only means that the severity of the crime speaks to the need for the possibility of a greater punishment. It is quite possible that the juvenile will still be rehabilitated if he takes advantage of the services afforded to him.

It is important to mention that the juvenile court judge or jury can hand down a sentence of incarceration or probation, thus the juvenile, even under the determinate sentencing statute, might never be incarcerated.

- **What factors does the County Attorney consider when deciding to seek a determinate sentence?**

He considers the egregious nature of the alleged crime, the type of crime, and whether or not it is a significant problem in our community. The past criminal history of the juvenile is also considered in some cases.