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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

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## DIGEST

Kostelka (SB 40)

Present law provides that a criminal defendant in a non-capital case may knowingly and intelligently waive his right to trial by jury.

Proposed law retains present law.

Present law provides that the court must inform the defendant of his right to waive trial by jury.

Proposed law deletes this provision of present law.

Present law provides that the defendant must waive his right to trial by jury pursuant to time limits set forth in present law or with the court's permission at any time prior to the commencement of trial.

Proposed law deletes these provisions of present law and adds that the defendant must exercise his right to waive trial by jury pursuant to present constitution and by written motion not later than 45 days prior to the date his case is set for trial. Proposed law further provides that this motion must be signed by defendant, and also signed by defendant's counsel unless the defendant has waived his right to counsel.

Present law provides that the defendant may withdraw a waiver of trial by jury unless the court finds that withdrawal of the waiver would result in interference with the administration of justice, unnecessary delay, unnecessary inconvenience to witnesses, or prejudice to the state.

Proposed law deletes this provision of present law and adds that the defendant may waive trial by jury within 45 days prior to the commencement of trial with the consent of the district attorney.

Proposed law provides that the waiver of trial by jury is irrevocable and the defendant cannot withdraw his waiver of trial by jury.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 780)