

Regular Session, 2010

HOUSE BILL NO. 1106

BY REPRESENTATIVES WHITE AND RICHARDSON

JUVENILE PROCEDURE: Provides relative to divestiture of juvenile jurisdiction

1 AN ACT

2 To amend and reenact Children's Code Article 305(E), relative to juvenile court jurisdiction;
3 to amend provisions relative to the divestiture of juvenile court jurisdiction; to
4 provide relative to the jurisdiction over mental capacity determinations; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 305(E) is hereby amended and reenacted to read
8 as follows:

9 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
10 jurisdiction over children; when acquired

11 * * *

12 E.(1) If a competency or sanity examination is ordered, except for the filing
13 of a delinquency petition, the return of an indictment, or the filing of a bill of
14 information, no further steps to prosecute the child in a the court exercising criminal
15 jurisdiction shall occur ~~until~~: until the proper court exercising jurisdiction determines
16 the child's mental capacity to proceed.

17 ~~(a) Counsel is appointed for the child and notified in accordance with Article~~
18 ~~809; and~~

19 ~~(b) The court determines mental capacity to proceed in accordance with~~
20 ~~Chapter 7 of Title VIII.~~

21 (2) When an indictment has been returned or a bill of information has been
22 filed pursuant to this Subsection, the district court exercising criminal jurisdiction

1 shall be the proper court to determine the child's mental capacity to proceed. In all
 2 other instances, the juvenile court shall be the proper court to make this
 3 determination. ~~When a child has been charged with one or more of the crimes listed~~
 4 ~~in Article 857, has reached twenty-one years of age and is incompetent, the court on~~
 5 ~~its own motion or on the motion of the district attorney may conduct a hearing to~~
 6 ~~consider whether to transfer the child for further proceedings to the appropriate court~~
 7 ~~exercising criminal jurisdiction.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

White

HB No. 1106

Abstract: Provides relative to the divestiture of juvenile court jurisdiction and jurisdiction over mental capacity determinations.

Present law provides that a child who is 15 years of age or older at the time of the commission of certain enumerated offenses is subject to the exclusive jurisdiction of the juvenile court until either an indictment charging one of those offenses is returned, or the juvenile court finds probable cause that he committed one of those offenses, whichever occurs first.

Present law provides that if a competency or sanity examination is ordered, the criminal proceedings are stayed except for the filing of a delinquency petition, and no further steps to prosecute the child shall occur until counsel is appointed for the child and notified and the court determines mental capacity to proceed.

Proposed law amends present law and provides that if a competency or sanity examination is ordered, the criminal proceedings are stayed except for the filing of a delinquency petition, the return of an indictment, or the filing of a bill of information, and no further steps to prosecute the child shall occur until the child's mental capacity to proceed has been determined.

Proposed law provides that when an indictment has been returned or a bill of information, the district court exercising criminal jurisdiction shall be the proper court to determine the child's mental capacity to proceed, and provides that in all other instances, the juvenile court shall be the proper court to make this determination.

Present law provides that when a child has been charged with certain crimes, and has reached 21 years of age and is incompetent, the court on its own motion or on the motion of the district attorney may conduct a hearing to consider whether to transfer the child for further proceedings to the appropriate court exercising criminal jurisdiction.

Proposed law repeals this provision of present law.

(Amends Ch.C. Art. 305(E))