

## RÉSUMÉ DIGEST

HB 11

2019 Regular Session

Bacala

Present law (Ch.C. Art. 814) provides that a child may be taken into custody without a court order or warrant by a peace officer or probation officer if the officer has probable cause to believe that the child has committed a delinquent act.

If a child is taken into custody without a court order or warrant, present law (Ch.C. Art. 814) provides that the officer shall have the responsibility to either:

- (1) Counsel and release the child to the care of his parents upon their written promise to bring the child to court at such time as may be fixed by the court.
- (2) Promptly escort the child to the appropriate facility in accordance with present law (Ch.C. Art. 815).

In this regard, present law (Ch.C. Art. 815) requires the peace officer or an appropriate representative of the arresting agency to transport the child to the appropriate place of detention specified in present law, unless the child has been released to the care of his parents pursuant Paragraph (1) above.

Present law (Ch.C. Art. 804) provides that a 17-year-old who commits, on or after March 1, 2019, a delinquent act that is not a crime of violence may be subject to delinquency proceedings of the appropriate court exercising juvenile court jurisdiction instead of being subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction.

Proposed law would have required the officer to counsel and release the child to the care of his parents upon their written promise to bring the child to court upon notice issued by the court.

Proposed law would have further provided that if a child who is 17 years of age or older is taken into custody without a court order or warrant for a misdemeanor-grade delinquent act, the peace officer would have had the additional option of releasing the child upon the issuance of a summons or upon the child's written promise to appear in court upon notice issued by the court.

(Proposed to amend Ch.C. Art. 814(B)(1) and 815(A); proposed to add Ch.C. Art. 814(B)(3))

VETO MESSAGE: "Please be advised that I have vetoed House Bill 11 of the 2019 Regular Session. This bill authorizes the release of a seventeen-year-old taken into custody for the commission of a misdemeanor-grade delinquent act upon the issuance of a summons or counsel and release the child, without notice to the child's parents, upon the child's written promise to appear in court.

Currently, if a peace officer or probation officer has probable cause to believe that a child has committed a delinquent act, the officer has the following two options: (1) counsel and release the child to the care of his parents upon their written promise to bring the child to court at such time as may be fixed by the court; (2) promptly escort the child to the appropriate facility in accordance with Article 815 of the Children's Code.

The third option proposed by House Bill 11 is flawed. Seventeen-year olds are deemed to be children and minors under state law and lack the capacity to enter into contract or written promise to appear. La. Ch. Code Arts. 116(3), 116(4), 804(1)(a), La. Civ. Code Art. 1918. Under this new scenario, parents would never know that their child has had contact with the juvenile justice system. Parents should be provided notice and given the opportunity to participate in each step of the juvenile justice system process when their child has committed a delinquent act. House Bill 11 relieves parents of this important responsibility without their knowledge or consent to do so."