

2021 Regular Session

HOUSE BILL NO. 70

BY REPRESENTATIVE THOMAS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDRENS CODE: Provides relative to amendment of petitions in delinquency proceedings

1 AN ACT

2 To amend and reenact Children's Code Article 846(A) and (B) and to enact Children's Code
3 Article 846(D), relative to delinquency proceedings; to provide relative to petitions
4 and summons of delinquency proceedings; to provide relative to the amendment of
5 the delinquency proceeding petition; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 846(A) and (B) are hereby amended and
8 reenacted and Children's Code Article 846(D) is hereby enacted to read as follows:

9 Art. 846. Amendment of petition

10 A. ~~With leave of court, the~~ The petitioner may amend the petition at any time
11 to cure defects of form, imperfection, omission, or uncertainty.

12 B. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner
13 may amend the petition to include new allegations of fact or requests for
14 adjudication. ~~However, if such leave is granted, the child may request a continuance~~
15 ~~of the adjudication hearing. A continuance may be granted for such period as is~~
16 ~~required in the interest of justice.~~

17 * * *

18 D. On motion of the child that he has been prejudiced in his defense on the
19 merits by defect of form, imperfection, omission, or uncertainty, the court may grant
20 a continuance for a reasonable time. In determining whether the child has been

1 prejudiced in his defense upon the merits, the court shall consider all circumstances
2 of the case and the entire course of the prosecution.

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)]

HB 70 Original

2021 Regular Session

Thomas

Abstract: Adds grounds for amending a petition in delinquency proceedings and requires the court to consider certain factors in determining whether a child has been prejudiced in his defense.

Present law provides that with leave of court the petitioner may amend the petition at anytime to cure defects of form.

Present law further provides that with leave of court and prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for adjudication.

Present law also provides that if such leave is granted, the child may request a continuance of the adjudication hearing and that continuance may be granted for such a period as is required in the interest of justice.

Proposed law no longer requires leave of court to amend the petition or to include new allegations of fact or requests for adjudication.

Proposed law adds imperfection, omission, and uncertainty as grounds for amending a petition in delinquency proceedings.

Proposed law specifies that on the motion of the child that he has been prejudiced in his defense on the merits by defect of form, imperfection, omission, or uncertainty, the court may grant a continuance for a reasonable time.

Proposed law requires the court to consider all circumstances of the case and the entire course of the prosecution in determining whether the child has been prejudiced in his defense on the merits.

(Amends Ch.C. Art. 846(A) and (B); Adds Ch.C. Art. 846(D))