

## RÉSUMÉ DIGEST

SB 379

2022 Regular Session

Peacock

Present law prohibits any adult person convicted of, or found not guilty by reason of insanity for, a crime of violence as defined in present law, or any crime defined as an attempt to commit a crime of violence under the laws of Louisiana, or has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be a crime of violence, from possessing a firearm or carrying a concealed weapon.

Proposed law would have retained present law and extended the prohibition against possessing a firearm or carrying a concealed weapon to persons that committed a felony-grade delinquent act (a crime of violence committed by a child) when that person was 16 or 17 years old and that person is under the age of 24 when the offense is committed.

Would have become effective August 1, 2022.

(Proposed to amend R.S. 14:95.1(A))

### VETO MESSAGE:

"Please allow this letter to inform you that I have vetoed Senate Bill 379 of the 2022 Regular Session.

This bill would have allowed certain juvenile adjudications to be used as an element of the crime of possession of a firearm by a convicted felon for any person under the age of 24. The Louisiana Supreme Court has already weighed in on this matter as it relates to habitual offender laws in *State v. Brown*, when the court ruled that a juvenile offense cannot be used to enhance a penalty for an offense committed as an adult. What this bill would seek to do, however, is not just use a juvenile adjudication as an enhancement to a penalty provision. Instead, it seeks to establish the previous juvenile adjudication as an element of a new crime committed as an adult, requiring proof beyond a reasonable doubt.

There are serious constitutional issues surrounding using a juvenile's delinquent adjudication as a prior conviction, or 'predicate offense' for purposes of establishing an element of a new crime when the juvenile becomes an adult. As was questioned in the House floor debate, how would a prosecutor be able to use confidential records from the juvenile proceeding to prove the element of the 'predicate offense' in the adult proceeding beyond a reasonable doubt? Would 16 and 17 year olds now be entitled to a trial by jury for any of the qualifying offenses, notwithstanding the fact that Louisiana law specifically precludes access to a jury trial for these children adjudicated in juvenile court? Would they be advised, for that matter, that the juvenile adjudication can be used as an element of a crime they may commit as an adult? These are just some of the many questions that could not be answered in House floor debate. When coupled with the constitutional issues, these unanswered questions demonstrate the many reasons why this bill should not become law."