

GREEN SHEET REDIGEST

HB 523

2023 Regular Session

LaCombe

JUVENILES/DETENTION FAC: Provides relative to juvenile detention facilities.

DIGEST

Present law (Ch.C. Art. 306) provides for the detention of juveniles who are subject to criminal court jurisdiction.

Proposed law retains present law.

Present law (Ch.C. Art. 306(B)) provides that if a detention facility for juveniles is not available, he may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete these activities for up to six hours, except that in nonmetropolitan areas, he may be held for up to 24 hours if certain conditions occur.

Proposed law retains present law, but changes the length of time that a juvenile may be held in an adult jail or lockup from 24 hours to 48 hours if certain conditions occur.

Present law (Ch.C. Art. 306(B)(2)) provides that one of the conditions that may result in a juvenile being placed in an adult jail or lockup is when a continued custody hearing in accordance with present law (Ch.C. Arts. 820 and 821) is held within 24 hours after his arrest.

Proposed law retains present law, but changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Present law (Ch.C. Art. 306(C)) provides that if an indictment has not been returned, a bill of information filed, or a continued custody hearing not held within 24 hours, the child held in an adult jail or lockup in a nonmetropolitan area shall be released or removed to a juvenile detention facility.

Proposed law retains present law, but changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Present law (Ch.C. Art. 306(G)) provides that a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305) shall not be detained prior to trial in a juvenile detention facility after reaching the age of 18 if the governing authority with funding responsibility for the juvenile detention facility objects to such detention.

Proposed law amends present law to provide that a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305) and being held in a juvenile detention facility before trial shall be transferred to the appropriate adult facility for continued pretrial detention upon reaching the age of 18.

Present law (Ch.C. Art. 815) provides relative to the place of detention for a child taken into custody.

Proposed law retains present law.

Proposed law provides that if a juvenile detention center is not available, a juvenile may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete the activities for up to six hours, except that in nonmetropolitan areas, he may be held for up to 48 hours if all of the following occur:

- (1) The juvenile is accused of a nonstatus offense.

- (2) A continued custody hearing is held within forty-eight hours after his arrest.
- (3) There is no acceptable alternative placement to the jail or lockup in which he is being held.
- (4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist that provide for sight and sound separation of the juvenile from adult offenders and the juvenile can be given continuous visual supervision while placed in the jail or lockup.

Proposed law provides that beginning July 1, 2024, all juvenile detention facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or public agency, shall be licensed and regulated by the office of juvenile justice (OJJ).

Proposed law provides for an annual license fee for any license issued to a detention facility to be used by the OJJ for expenses related to the licensing program, as follows:

- (1) \$400 for a detention facility authorized to care for six or fewer juveniles.
- (2) \$500 for a detention facility authorized to care for at least seven but not more than fifteen juveniles.
- (3) \$600 for a detention facility authorized to care for sixteen or more juveniles

Proposed law provides that an entity operating a juvenile detention facility without a valid license issued by the OJJ be fined \$1,000 for each day of operation without the valid license.

Proposed law authorizes the OJJ to file suit against an entity operating a juvenile detention facility without a valid license issued by the OJJ in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

Proposed law prohibits any person from operating a juvenile detention facility in violation of any provision of present law, proposed law, or any other state or federal statute, regulation, or any rule adopted pursuant to the APA that governs the ownership or operation of juvenile detention facilities.

Proposed law authorizes OJJ to issue a written warning that includes a corrective action plan to any person or entity violating these requirements when the violation creates a condition or occurrence relating to the operation and maintenance of a juvenile detention facility that does not pose an imminent threat to the health, safety, rights, or welfare of a child.

Proposed law provides that any appeal of any OJJ decision for a violation be suspensive, with any appeals filed to be heard by the division of administrative law.

Proposed law authorizes the OJJ to institute all necessary civil court actions to collect fines imposed that are not timely appealed.

Proposed law requires any civil fines collected to be deposited immediately into the state treasury and deposited in to a newly created "Juvenile Detention Licensing Trust Fund".

Proposed law requires that the monies in the fund be subject to annual appropriation and be available exclusively for use by OJJ for the education and training of employees, staff, or other personnel of juvenile detention facilities.

Proposed law prohibits any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility that is requesting licensure or is licensed by the OJJ from being employed by the facility if that individual's name is recorded on the state central registry as a perpetrator for a justified finding of abuse or neglect of a child.

Proposed law requires the OJJ to promulgate rules and regulations in accordance with the APA, with the rules containing at a minimum the following:

- (1) Licensing standards for juvenile detention centers that comport with nationally recognized and accepted best practice standards.
- (2) Criteria for risk evaluation requests, the composition of the risk evaluation panel, and criteria for risk evaluation determinations.
- (3) Specific factors for determining the type of sanctions to be imposed including severity of risk, actual harm, failure to implement a written corrective action plan, mitigating circumstances, the history of noncompliance and an explanation of the treatment of continuing noncompliance, an explanation of the treatment of continuing repeat deficiencies, evidence of good faith effort to comply, and any other relevant factors.
- (4) The process to provide notice to a juvenile detention facility of any violation, for a departmental reconsideration process for sanctions issued, and for an appeal procedure, including judicial review.

Proposed law repeals present law that requires licensing to be conducted by the Dept. of Children and Family Services.

(Amends Ch.C. Art. 306(B)(intro. para.) and (2), (C), and (G); adds Ch.C. Art. 815(F), and R.S. 15:1110.3; repeals R.S. 15:1110(F) through (I), 1110.1 and 1110.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Relative to the present law rules for separate standards for facilities utilized for pre-adjudication juvenile detention, delete the proposed law provision relative to post-adjudication detention.
3. Provide that pre-adjudication standards for juvenile detention facilities shall allow the local existing facilities to be utilized with minimal additional costs when it is determined that the economic impact is sufficiently great to make compliance impractical.
4. Change the provision of present law relative to the transfer of juveniles for criminal prosecution from permissive to mandatory for all subsequent procedures if an indictment is returned or a bill of information is filed.
5. Require the child's transfer to the appropriate adult facility to occur upon the child reaching 18 years of age.
6. Change the length of time that a juvenile may be held in an adult jail or lockup from 24 hours to 48 hours if certain conditions occur.
7. Change the length of time for the occurrence of the continued custody hearing from 24 hours to 48 hours.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.

2. Remove present law language relative to rules for licensing standards in juvenile detention facilities.
3. Delete proposed law language from present law (Ch.C. Art. 305)(B)) that mandates the transfer of a child, upon reaching 18 years of age, to an adult facility for detention prior to his trial as an adult.
4. Change the length of time for the occurrence of the continued custody hearing for a child held in an adult jail or lockup in a nonmetropolitan area from 24 hours to 48 hours.
5. Relative to places of detention for a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305), remove the requirement that a governing authority with funding responsibility needs to object in order for a child to not be detained in a juvenile detention facility after reaching 18 years of age.
6. Relative to places of detention for a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305), require the transfer of a child to the appropriate adult facility for continued pretrial detention upon the child reaching 18 years of age.
7. Provide for the permissive detention of a juvenile in an adult jail or lockup for identification or processing procedures or while awaiting transportation for up to six hours, or up to 48 hours in nonmetropolitan areas, if certain conditions are met.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the reengrossed bill

1. Makes technical changes.
2. Provides that beginning July 1, 2024, all juvenile detention facilities, shall be licensed and regulated by the office of juvenile justice (OJJ).
3. Provides for an annual license fee for any license issued to a detention facility to be used by the OJJ for expenses related to the licensing program.
4. Provides relative to fines that an entity operating a juvenile detention facility without a valid license may incur.
5. Authorizes the OJJ to file suit against an entity operating a juvenile detention facility without a valid license in the district court in the parish in which the facility is located for injunctive relief.
6. Prohibits any person from operating a juvenile detention facility in violation of any provision of present law, proposed law, or any other state or federal statute, regulation, or any rule that governs the ownership or operation of juvenile detention facilities.
7. Authorizes OJJ in lieu of revocation, to issue a written warning that includes a corrective action plan to any person or entity under circumstances.
8. Provides that any appeal of any OJJ decision for a violation be suspensive, with any appeals filed to be heard by the division of administrative law.
9. Authorizes the OJJ to institute all necessary civil court actions to collect fines imposed that are not timely appealed.

10. Requires any civil fines collected to be deposited into "Juvenile Detention Licensing Trust Fund", in the state treasury.
11. Requires that the monies in the fund be subject to annual appropriation and be available exclusively for use by OJJ for the education and training of employees, staff, or other personnel of juvenile detention facilities.
12. Provides relative to employment of persons at a juvenile detention facility.
13. Provides for the adoption of administration rules by the OJJ.
14. Repeals present law that requires licensing to be conducted by the Dept. of Children and family Services.
15. Provides for an effective date.