

2023 Regular Session

HOUSE BILL NO. 523

BY REPRESENTATIVES LACOMBE, SCHEXNAYDER, AND STEFANSKI

1 AN ACT

2 To amend and reenact Children's Code Article 306(B)(introductory paragraph) and (2), (C),
3 and (G), R.S. 15:1110(C)(1)(introductory paragraph), (D), (E), and (H), to enact
4 Children's Code Article 815(F) and R.S. 15:1110.3, and to repeal R.S. 15:1110(F)
5 through (I), 1110.1, and 1110.2, relative to the custody of juveniles; to provide
6 relative to the pre-adjudication detention of juveniles; to provide relative to licensing
7 standards for pre-adjudication detention facilities; to provide relative to the transfer
8 of juvenile detention facility licensing; to provide for an effective date; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Children's Code Article 306(B)(introductory paragraph) and (2), (C), and
12 (G) are hereby amended and reenacted and Children's Code Article 815(F) is hereby enacted
13 to read as follows:

14 Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

15 * * *

16 B. If a detention facility for juveniles is not available, he may be held in an
17 adult jail or lockup for identification or processing procedures or while awaiting
18 transportation only as long as necessary to complete these activities for up to six
19 hours, except that in nonmetropolitan areas, he may be held for up to ~~twenty-four~~
20 forty-eight hours if all of the following occur:

21 * * *

1 (2) A continued custody hearing in accordance with Articles 820 and 821 is
2 held within ~~twenty-four~~ forty-eight hours after his arrest.

3 * * *

4 C. If an indictment has not been returned, a bill of information filed, or a
5 continued custody hearing not held within ~~twenty-four~~ forty-eight hours, the child
6 held in an adult jail or lockup in a nonmetropolitan area shall be released or removed
7 to a juvenile detention facility.

8 * * *

9 G. Notwithstanding any provision of law to the contrary, a child who is
10 subject to criminal jurisdiction pursuant to Article 305 ~~shall not be detained prior to~~
11 ~~trial in a juvenile detention facility after reaching the age of eighteen if the governing~~
12 ~~authority with funding responsibility for the juvenile detention facility objects to~~
13 ~~such detention.~~ and being held in a juvenile detention facility before trial shall be
14 transferred to the appropriate adult facility for continued pretrial detention upon
15 reaching the age of eighteen.

16 * * *

17 Art. 815. Child taken into custody; place of detention

18 * * *

19 F. If a juvenile detention center is not available, a juvenile may be held in an
20 adult jail or lockup for purposes of and only as long as necessary to complete
21 identification or processing procedures or while awaiting transportation, but not to
22 exceed six hours. However, in nonmetropolitan areas, he may be held for up to
23 forty-eight hours if all of the following occur:

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

25 (2) A continued custody hearing in accordance with Articles 820 and 821 is
26 held within forty-eight hours after his arrest.

27 (3) There is no acceptable alternative placement to the jail or lockup in
28 which he is being held.

29 (4) The sheriff or the administrator of the adult jail or lockup has certified
30 to the court that facilities exist that provide for sight and sound separation of the

1 juvenile from adult offenders and the juvenile can be given continuous visual
2 supervision while placed in the jail or lockup.

3 Section 2. R.S. 15:1110(C)(1)(introductory paragraph), (D), (E), and (H) are hereby
4 amended and reenacted and R.S. 15:1110.3 is hereby enacted to read as follows:

5 §1110. Purpose and reasons for detention; detention standards; licensing; fees

6 * * *

7 C.(1) ~~At~~ No juvenile detention ~~facilities~~ facility, including ~~facilities~~ any
8 facility owned or operated by any governmental, profit, nonprofit, private, or public
9 agency, shall ~~not~~ be used to detain a child who is alleged to have committed a
10 delinquent act for any of the following purposes or reasons:

11 * * *

12 D.(1) On or after July 1, 2020, a detention screening instrument, as provided
13 in Children's Code Article 815, shall be administered for any child placed in secure
14 detention when taken into custody without a court order pursuant to Children's Code
15 Article 814 for alleged commission of a delinquent act.

16 (2)(a) The Louisiana Juvenile Detention Alternatives Initiative Statewide
17 Leadership Collaborative, created by House Concurrent Resolution No. 102 of the
18 2016 Regular Session of the Legislature, hereinafter referred to as "the JDAI
19 Collaborative" shall support the statewide implementation of detention screening
20 instruments and the training process and requirements for those persons who will
21 utilize the instruments.

22 (b) The detention screening instruments shall assess the child only to
23 determine the child's risk to public safety while a current arrest is pending and the
24 risk of failure to appear in court for the pending case.

25 (c) ~~Except as authorized in Subparagraph (d) of this Paragraph, the~~ The
26 detention screening instrument shall be selected from the tools that are being utilized
27 as of January 1, 2019, by local jurisdictions in the state, which shall be provided by
28 the JDAI Collaborative. A detention screening instrument that is being utilized by
29 a jurisdiction as of January 1, 2019, is sufficient to satisfy the requirements of this
30 Subparagraph.

1 ~~(d) Any jurisdiction that chooses to use a detention screening instrument~~
 2 ~~other than an instrument provided by the JDAI Collaborative, shall submit the~~
 3 ~~instrument to the JDAI Collaborative for its approval no later than April 1, 2020,~~
 4 ~~pursuant to a submission process set forth by the JDAI Collaborative.~~

5 (3) A copy of the completed detention screening instrument shall be
 6 provided to the juvenile detention facility for any child who is admitted into its
 7 custody. The juvenile detention facility shall keep a record of the results of the
 8 detention screening instrument and the recommendation made based upon the
 9 instrument to either detain the child, release the child with conditions, or release the
 10 child without conditions. This record shall include the parish in which the child was
 11 taken into custody, the most serious charge for which the child was taken into
 12 custody, and demographic information about the child including but not limited to
 13 race, ethnicity, gender, and age. This information shall be aggregated and submitted
 14 quarterly to the Louisiana Commission on Law Enforcement and Administration of
 15 Criminal Justice which shall annually provide such information to the JDAI
 16 Collaborative.

17 E. Each juvenile detention facility licensed pursuant to this ~~Section~~ Part,
 18 including facilities owned or operated by any governmental, profit, nonprofit,
 19 private, or public agency, may establish arts-based programming in the facility which
 20 may include but is not limited to performing arts, visual arts, and other arts activities
 21 that enhance youth development. For the purposes of funding the arts-based
 22 programming, the facility owner or operator is authorized to receive, by
 23 appropriation, gift, grant, donation, or otherwise, any sum of money, aid, or
 24 assistance from any person, firm, or corporation or from the United States, its
 25 agencies, the state of Louisiana, or any political subdivision of the state.

26 * * *

27 H. On or before July 1, 2013, all juvenile detention facilities, including
 28 facilities owned or operated by any governmental, profit, nonprofit, private, or public
 29 agency, shall be licensed in accordance with rules promulgated pursuant to the
 30 provisions of Subsection G of this Section. The Department of Children and Family

1 Services shall be responsible for licensing and regulating juvenile detention facilities
2 until July 1, 2024, when the licensing authority is transferred to the office of juvenile
3 justice pursuant to R.S. 15:1110.3.

4 * * *

5 §1110.3. Licensing; transfer to office of juvenile justice

6 A. Beginning July 1, 2024, all juvenile detention facilities, including
7 facilities owned or operated by any governmental, for profit, nonprofit, private, or
8 public agency, shall be licensed and regulated by the office of juvenile justice
9 pursuant to the provisions of this Section.

10 B. There shall be an annual license fee for any license issued to a detention
11 facility. The fee shall be used by the office of juvenile justice for expenses related
12 to the licensing program.

13 (1) For a detention facility authorized to care for six or fewer juveniles, the
14 license fee shall be four hundred dollars.

15 (2) For a detention facility authorized to care for at least seven but not more
16 than fifteen juveniles, the license fee shall be five hundred dollars.

17 (3) For a detention facility authorized to care for sixteen or more juveniles,
18 the license fee shall be six hundred dollars.

19 C. Whoever operates a juvenile detention facility without a valid license
20 issued by the office of juvenile justice pursuant to this Section shall be fined one
21 thousand dollars for each day of operation without the valid license. In addition to
22 seeking civil fines imposed pursuant to the provisions of this Section, if any juvenile
23 detention facility operates without a valid license issued by the office, the office may
24 file suit in the district court in the parish in which the facility is located for injunctive
25 relief, including a temporary restraining order, to restrain the institution, society,
26 agency, corporation, person or persons, or any other group operating the facility,
27 from continuing the violation.

28 D.(1) No person shall operate any juvenile detention facility in violation of
29 any provision of this Part or any other state or federal statute, regulation, or any rule

1 adopted pursuant to the Administrative Procedure Act that governs the ownership or
2 operation of juvenile detention facilities.

3 (2) In lieu of revocation of the facility's license, the office may issue a
4 written warning that includes a corrective action plan to any person or entity
5 violating these requirements when the violation creates a condition or occurrence
6 relating to the operation and maintenance of a juvenile detention facility that does
7 not pose an imminent threat to the health, safety, rights, or welfare of a child. Failure
8 to implement a corrective action plan issued pursuant to the provisions of this
9 Section may result in either the assessment of a civil fine or license revocation or
10 may result in both actions being taken by the office. Such civil fines shall not exceed
11 two hundred fifty dollars per day for each fine assessment; however, the aggregate
12 fines assessed for violations determined in any consecutive twelve-month period
13 shall not exceed two thousand dollars.

14 E. An appeal of any office decision for a violation of any provision of this
15 Part shall be suspensive. All appeals filed pursuant to the provisions of this Section
16 shall be heard by the division of administrative law pursuant to Chapter 13-B of Title
17 49 of the Louisiana Revised Statutes of 1950. The office shall furnish the facility or
18 agency a copy of the decision, together with notice of the procedure for requesting
19 judicial review.

20 F. The office may institute all necessary civil court actions to collect fines
21 imposed that are not timely appealed. No juvenile detention facility may claim
22 imposed fines as reimbursable. Interest shall begin to accrue at the current judicial
23 rate on the day following the date on which any fines become due and payable. All
24 costs of any successful action to collect such fines, including travel expenses and
25 reasonable attorney fees, shall be awarded to the office in addition to the fines.

26 G.(1) Civil fines collected pursuant to the provisions of this Section shall be
27 deposited immediately into the state treasury.

28 (2) After compliance with the requirements of Article VII, Section 9(B) of
29 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
30 and prior to the monies being placed in the state general fund, an amount equal to the

1 amount deposited as provided in Paragraph (1) of this Subsection shall be credited
2 to a special fund hereby created in the state treasury to be known as the "Juvenile
3 Detention Licensing Trust Fund". The monies in the fund shall be subject to annual
4 appropriation and shall be available exclusively for use by the office of juvenile
5 justice for the education and training of employees, staff, or other personnel of
6 juvenile detention facilities.

7 (3) The monies in the fund shall be invested by the treasurer in the same
8 manner as the monies in the state general fund, and all interest earned from the
9 investment of monies in the fund shall be deposited in and remain to the credit of the
10 fund. All unexpended and unencumbered monies remaining in the fund at the end
11 of the fiscal year shall remain in the fund.

12 H.(1) Any owner, operator, current or prospective employee, or volunteer of
13 a juvenile detention facility that is requesting licensure or is licensed by the office
14 of juvenile justice is prohibited from being employed by the facility if that
15 individual's name is recorded on the state central registry as a perpetrator for a
16 justified finding of abuse or neglect of a child.

17 (2) If the individual's name is or was entered on the state central registry, the
18 individual who is the subject of the finding may file a written motion seeking
19 correction to the division of administrative law for an administrative appeal of the
20 justified determination, in accordance with Children's Code Article 616.1.1 and the
21 procedures promulgated by the office.

22 I. The office of juvenile justice shall promulgate rules and regulations in
23 accordance with the Administrative Procedure Act to implement the provisions of
24 this Section. The rules shall contain at a minimum the following:

25 (1) Licensing standards for juvenile detention centers that comport with
26 nationally recognized and accepted best practice standards.

27 (2) Specific factors for determining the type of sanctions to be imposed
28 including severity of risk, actual harm, failure to implement a written corrective
29 action plan, mitigating circumstances, the history of noncompliance and an
30 explanation of the treatment of continuing noncompliance, an explanation of the

1 treatment of continuing repeat deficiencies, evidence of good faith effort to comply,
2 and any other relevant factors.

3 (3) The process to provide notice to a juvenile detention facility of any
4 violation, a reconsideration process for sanctions issued, and an appeal procedure,
5 including judicial review.

6 Section 3. R.S. 15:1110(F) through (I), 1110.1, and 1110.2 are hereby repealed in
7 their entirety.

8 Section 4.(A) The provisions of this Section and Sections 1 and 2 of this Act shall
9 become effective upon signature by the governor or, if not signed by the governor, upon
10 expiration of the time for bills to become law without signature by the governor, as provided
11 by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and
12 subsequently approved by the legislature, this Section 1 and this Section of this Act shall
13 become effective on the day following such approval.

14 (B) Section 3 of this Act shall become effective on July 1, 2024.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____