

2019 Regular Session

HOUSE BILL NO. 158

BY REPRESENTATIVES WHITE, ABRAMSON, ADAMS, BILLIOT, DAVIS, DUPLESSIS, DWIGHT, HORTON, JEFFERSON, MAGEE, MARCELLE, MARINO, AND PIERRE AND SENATORS ALARIO, BARROW, BOUDREAUX, CLAITOR, ERDEY, FANNIN, GATTI, JOHNS, LONG, LUNEAU, MARTINY, MILLS, PEACOCK, PETERSON, PRICE, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, AND WARD

1 AN ACT

2 To amend and reenact R.S. 15:1110(B), (C), (E), and (F) and Children's Code Articles  
3 814(A) and (B)(2), 815, and 817(A) and to enact R.S. 15:609(A)(3) and 1110(D),  
4 (G), and (H) and Children's Code Articles 815.1 and 826(E), relative to juveniles; to  
5 provide relative to juvenile detention; to provide relative to the purposes of juvenile  
6 detention; to provide for the development and implementation of detention screening  
7 instruments; to provide for the responsibilities of juvenile detention facilities relative  
8 to detention screening instruments; to provide relative to the authority of law  
9 enforcement when a child has committed a delinquent act; to require the use of a  
10 detention screening instrument relative to a child taken into custody for the  
11 commission of a delinquent act; to require certain information relative to a detention  
12 screening instrument be recorded; to provide relative to the aggregation and  
13 dissemination of such information; to provide relative to the appropriate facility to  
14 which a child may be transferred when taken into custody for commission of a  
15 delinquent act; to authorize a child to participate in an alternative to a detention  
16 program in lieu of transfer to a juvenile detention facility; to provide relative to the  
17 authority to release a child after being taken into custody for commission of a  
18 delinquent act; to authorize the establishment of alternative to detention programs;  
19 to provide relative to the operation and funding of such programs; to provide relative  
20 to the taking of DNA samples of a child who is released in lieu of being taken into  
21 custody; and to provide for related matters.

22 Be it enacted by the Legislature of Louisiana:

1 Section 1. Children's Code Articles 814(A), (B)(2), and (C), 815, and 817(A) are  
2 hereby amended and reenacted and Children's Code Articles 815.1 and 826(E) are hereby  
3 enacted to read as follows:

4 Art. 814. Taking child into custody without a court order; duties of the officer;  
5 duties of the court

6 A. A child may be taken into custody without a court order or warrant by a  
7 peace officer or probation officer if the officer has probable cause to believe that the  
8 child has committed a delinquent act. When the officer has probable cause to believe  
9 that the child has committed a delinquent act, the officer, in lieu of taking the child  
10 into custody, may issue a verbal warning to the child.

11 B. If a child is taken into custody without a court order or warrant, the officer  
12 shall have the responsibility to either:

13 \* \* \*

14 (2) ~~Promptly escort the child to~~ Follow the appropriate facility in accordance  
15 ~~with procedures set forth in Article 815.~~

16 \* \* \*

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

18 A.(1) The peace officer or an appropriate representative of the arresting  
19 agency shall have the authority and responsibility to transport the child to the  
20 appropriate place of detention as specified in Paragraphs B and C of this Article,  
21 unless the child has been released to the care of his parents pursuant to Article  
22 814(B)(1). Beginning July 1, 2020, a detention screening instrument shall be  
23 administered to the child prior to transportation of the child to the appropriate place  
24 of detention or upon the child's arrival at the appropriate place of detention, unless  
25 it cannot be completed at that time. If the detention screening instrument cannot be  
26 completed prior to the child's transportation to the appropriate place of detention or  
27 upon the child's arrival at the appropriate place of detention, the detention screening  
28 instrument shall be completed as soon as possible after the child has been admitted  
29 into the detention center. Reasonable efforts shall be made to administer the  
30 instrument at the earliest possible time.

1                   (2) The detention screening instrument shall include, but need not be limited  
 2                   to, consideration of the following factors:

3                   (a) The current offense for which the child was taken into custody.

4                   (b) The child's history of prior delinquent acts.

5                   (c) The child's history of failure to appear.

6                   (d) The child's history of being a runaway.

7                   (e) Any mitigating and aggravating circumstances.

8                   (3) When the child is detained prior to the completion of the detention  
 9                   screening instrument, the results of the detention screening instrument shall be  
 10                   communicated to the court promptly upon its completion.

11                   B.(1) Except as provided in Paragraph F E of this Article, if the child has  
 12                   been taken into custody for the commission of a felony-grade delinquent act or of a  
 13                   misdemeanor-grade delinquent act based upon an offense against the person of  
 14                   another, the child ~~shall~~ may be taken to a juvenile detention center; and the  
 15                   procedures regarding the administration of the detention screening instrument set  
 16                   forth in Paragraph A of this Article shall apply.

17                   C. Except as provided in Paragraph F E of this Article, for the commission  
 18                   of any other misdemeanor-grade delinquent act, the child ~~shall be taken to either a~~  
 19                   ~~shelter care facility or a juvenile detention center~~ may be taken to a juvenile  
 20                   detention center or shelter care facility or released to a parent or guardian upon the  
 21                   written promise of the parent or guardian to bring the child to court pursuant to  
 22                   Children's Code Article 814. If the child is not released to a parent or guardian, the  
 23                   officer shall follow the procedures set forth in Paragraph A of this Article.

24                   ~~D. Notwithstanding any other provision of this Code or other provision of~~  
 25                   ~~law to the contrary, no judge shall order that a youth who is thirteen years of age or~~  
 26                   ~~older and who is taken into custody for a felony-grade delinquent act or for a~~  
 27                   ~~misdemeanor-grade delinquent act based upon an offense against the person of~~  
 28                   ~~another be placed in a shelter care facility.~~

29                   E.D. The governing authority of the parish or municipality requesting  
 30                   placement of a juvenile in either a regional detention center or a shelter care facility

1 shall be responsible to the regional detention center or shelter care facility for the  
2 cost of confinement in accordance with a schedule which may be adopted by the  
3 regional detention center or shelter care facility.

4 F.E. No child under the age of thirteen shall be detained in a juvenile  
5 detention center after being taken into custody for the alleged commission of a  
6 misdemeanor-grade delinquent act.

7 Art. 815.1. Alternative to detention programs

8 A. Each judicial district or parish may develop a program or programs to  
9 serve as alternatives to secure detention of a child. Such program shall be used only  
10 for a child taken into custody for the commission of a delinquent act who is not  
11 released pursuant to Article 814.

12 B. An alternative to detention program may be operated either by a nonprofit  
13 or government entity.

14 C. There shall be no fees associated with participation in an alternative to  
15 detention program. Funding may be provided by any source, including through a  
16 contract with the office of juvenile justice. Any program funded by the office of  
17 juvenile justice shall comply with any requirements established by the office of  
18 juvenile justice for the purpose of receiving and retaining such funding.

19 D. An alternative to detention program shall be considered a form of  
20 detention and the time periods set forth in Children's Code Articles 854 and 877 shall  
21 apply unless waived by the child. No child shall remain enrolled in an alternative to  
22 detention program following a disposition hearing, except as an alternative to  
23 placement in detention or other out-of-home placement.

24 E. An alternative to detention program is intended to serve the same limited  
25 purpose as secure detention as set forth in R.S. 15:1110. The child's participation in  
26 an alternative to detention program shall not be considered an adjudication nor shall  
27 it suspend delinquency proceedings. An alternative to detention program may  
28 include rehabilitative components, but continued participation in the program shall  
29 not be required post-adjudication, except as an alternative to detention of the child  
30 or other out-of-home placement. Placement of a child in an alternative to detention

1 program does not preclude the child from being referred to treatment programs that  
2 are not required as a condition of the child's release from detention.

3 \* \* \*

4 Art. 817. Release from custody

5 A. As soon as practicable after a child is received by a juvenile detention  
6 center or shelter care facility, the court or ~~a probation officer employed and an~~  
7 individual or entity authorized by the court to make the determination, ~~upon~~  
8 ~~determining it to be appropriate~~, shall, upon determining it to be appropriate, release  
9 the child to the care of his parents or other relatives upon their written promise to  
10 bring him to court at such times as may be fixed by the court. The court may also  
11 impose reasonable restrictions upon the child's travel, place of abode, association  
12 with other people, or employment during the period of this release.

13 \* \* \*

14 Section 2. R.S. 15:1110(B), (C), (E), and (F) are hereby amended and reenacted and  
15 R.S. 15:609(A)(3) and 1110(D), (G), and (H) are hereby enacted to read as follows:

16 §609. Drawing or taking of DNA samples

17 A.

18 \* \* \*

19 (3) When a peace officer elects to counsel and release a child pursuant to  
20 Children's Code Article 814, the peace officer is not required to draw or take a DNA  
21 sample from the child.

22 \* \* \*

23 §1110. ~~Detention~~ Purpose and reasons for detention; detention standards; licensing;  
24 fees

25 \* \* \*

26 B. Secure detention shall be used only when it is determined to be necessary  
27 based on the child's assessed risk to public safety or to secure the appearance of the  
28 child in court.

29 C.(1) All juvenile detention facilities, including facilities owned or operated  
30 by any governmental, profit, nonprofit, private, or public agency, shall not be used

1 to detain a child who is alleged to have committed a delinquent act for any of the  
2 following purposes or reasons:

3 (a) To punish, treat, or rehabilitate the child.

4 (b) To allow the child's parent, guardian, or legal custodian to avoid the  
5 parent's, guardian's, or legal custodian's legal responsibilities relative to the child.

6 (c) Solely to satisfy a demand made by a victim, law enforcement, or the  
7 community that a child be detained.

8 (d) To facilitate further interrogation or investigation.

9 (e) To facilitate further assessment or evaluation.

10 (f) The unavailability of a more appropriate facility.

11 (2) Nothing in this Subsection shall prohibit the detention of a child who is  
12 charged with the commission of a serious offense or with a history of prior  
13 adjudications for the commission of delinquent acts based upon serious offenses.

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

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

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

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

1           jurisdiction as of January 1, 2019, is sufficient to satisfy the requirements of this  
2           Subparagraph.

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

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

19           ~~B.E.~~ On or before July 1, 2011, the Louisiana Juvenile Detention Association  
20           shall develop and recommend uniform standards for local juvenile detention  
21           facilities that comport with nationally recognized and accepted best practice  
22           standards for juvenile detention facilities.

23           ~~C.F.~~ On or before January 1, 2012, the Department of Children and Family  
24           Services shall develop and promulgate, in accordance with the provisions of the  
25           Administrative Procedure Act, rules governing the licensing of juvenile detention  
26           facilities consistent with the standards recommended by the Louisiana Juvenile  
27           Detention Association.

28           ~~E.G.~~ On or before July 1, 2013, all juvenile detention facilities, including  
29           facilities owned or operated by any governmental, profit, nonprofit, private, or public

1 agency, shall be licensed in accordance with rules promulgated pursuant to the  
2 provisions of Subsection ~~C~~ F of this Section.

3 F.H. There shall be an annual license fee for any license issued to a detention  
4 facility as follows:

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

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

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

11 Section 3. This Act shall be cited and referred to as "Solan's Law".

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_