

2021 Regular Session

HOUSE BILL NO. 216

BY REPRESENTATIVE DUPLESSIS

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

CHILDREN: Provides relative to the imposition of court costs in proceedings involving children

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 15:1093(A), R.S. 47:299.1, and Children's Code Articles 320(A), 335(D), 405(B) and (G), 607(C), 774(B), 781.1(A), 793.4(A), 809(A), 811.2, 839(C), 848, 868(B), 888(C), 896(G), 897(B)(2)(g), and 899(B)(2)(g), to enact R.S. 13:1595.3(C) and Code of Criminal Procedure Article 887(I), and to repeal R.S. 15:910, 1086, 1094.7, and 1097.7, and Children's Code Articles 321, 405(D), (E), and (F), 781.1(B), 783, 901.1, and 924(B) and (C), relative to court fees; to eliminate juvenile court fees, costs, and taxes associated with juvenile delinquency cases; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:1595.3(C) is hereby enacted to read as follows:

§1595.3. Fees; enumeration

* * *

C. No court exercising juvenile jurisdiction in any parish in the state of Louisiana shall tax or assess costs against any juvenile delinquent or defendant, or the parents or guardians of the juvenile delinquent or defendant, for any judicial expenses or to cover any operating expenses of the court; including but not limited to, any salaries of court personnel, the establishment or maintenance of a law library for the court, or the purchase or maintenance of any type of equipment or supplies.

* * *

1 Section 2. R.S. 15:1093(A) is hereby amended and reenacted to read as follows:

2 §1093. Juvenile detention centers; special court costs

3 A. The district court in any parish which is also contained within the
4 jurisdiction of any juvenile detention center ~~may levy special costs in the amount of~~
5 ~~fifty dollars against every defendant who is convicted of a felony after trial or who~~
6 ~~enters a plea of guilty or nolo contendere or forfeits bond, excluding traffic offenses~~
7 ~~and misdemeanors~~ shall not levy special costs against a defendant who is adjudicated
8 delinquent, convicted of a felony, or who enters a plea of guilty or nolo contendere
9 or forfeits bond.

10 * * *

11 Section 3. R.S. 47:299.1 is hereby amended and reenacted to read as follows:

12 299.1. Purpose

13 A. The purpose of this Part is to establish a system to permit agencies of the
14 state of Louisiana to make a claim of offset to the secretary of revenue against any
15 amounts refundable to an individual because of overpayments of Louisiana
16 individual income taxes for debts owed by the individual to such agencies. It is the
17 intention of the legislature that this offset remedy be in addition to and not in
18 substitution of any other remedy or action provided for by law in favor of such
19 agency for the collection of debts.

20 B. Any debts resulting from a delinquency adjudication are exempted from
21 the provisions of this Section.

22 C. Any debts resulting from the conviction of a person who was a child at
23 the time of their offense are exempt from the provisions of this Section.

24 Section 4. Children's Code Articles 320(A), 335(D), 405(B) and (G), 607(C),
25 774(B), 781.1(A), 793.4(A), 809(A), 811.2, 839(C), 848, 868(B), 888(C), 896(G),
26 897(B)(2)(g), and 899(B)(2)(g) are hereby amended and reenacted to read as follows:

27 Art. 320. Indigency determination

28 A. For purposes of the appointment of counsel, children are presumed to be
29 indigent, regardless of court jurisdiction.

30 * * *

1 Art. 335. Preparation of record; costs

2 * * *

3 D. If a child desires a transcript for appeal, ~~he or his parents shall pay the~~
4 ~~cost of transcription of the record unless the court determines that the child and his~~
5 ~~parents lack means to pay such cost~~ one shall be provided at no expense to the child,
6 or the parent or guardian of the child.

7 * * *

8 Art. 405. Court or witness fees; travel expenses

9 * * *

10 B. The court may authorize the payment of necessary travel expenses to
11 witnesses attending in response to summons. Travel expenses, when authorized by
12 the court, shall be paid from the general fund of the parish or other funds available
13 to the court. Except in proceedings initiated by the state, the court may authorize the
14 payment of curator expenses and fees, which, if so authorized, shall be fixed by the
15 court and paid by petitioners, unless the petitioner is a child or the parent or guardian
16 of a child petitioner. In such a case, no fees shall be assigned to the child or the
17 parent or guardian of the child.

18 * * *

19 G. In all cases in which support rights have been assigned to the Department
20 of Children and Family Services as a condition of eligibility for Family
21 Independence Temporary Assistance Program (FITAP) and in all civil, criminal, or
22 juvenile support proceedings initiated by the department on its own behalf or on
23 behalf of a non-FITAP applicant, the provisions of Chapter 2 of Title XIII shall
24 apply as to imposition of a collection fee against the person owing the support
25 obligation. However, if a cost or fee originates from any proceeding involving a
26 juvenile delinquent, that cost or fee shall not be imposed against the child, or the
27 parent or guardian of the child.

28 * * *

29 Art. 607. Child's right to appointed counsel; payment

30 * * *

1 C. ~~If the court finds that the parents of the child are financially able, it may~~
2 ~~order the parents to pay some or all of the costs of the child's representation in~~
3 ~~accordance with Children's Code Articles 320 and 321. Representation shall be~~
4 ~~provided to the child at no expense to the child, or the parent or guardian of the child.~~

5 * * *

6 Art. 774. Physical and mental examination for disposition

7 * * *

8 B. ~~After giving the caretaker a reasonable opportunity to be heard, the court~~
9 ~~may order that he shall contribute to the cost of any court-ordered examination or~~
10 ~~evaluation in an amount commensurate with his ability to pay. The child, or the~~
11 ~~parent or guardian of the child, shall not be responsible for the costs arising from an~~
12 ~~order for a physical or mental examination.~~

13 * * *

14 Art. 781.1. Probation and parole supervision fees

15 A. When the court suspends the imposition or execution of sentence and
16 places the child or his parent or both on supervised probation or grants the child
17 supervised parole, and the probationer or parolee is to be supervised by the
18 Department of Public Safety and Corrections or any other agency, ~~the court shall~~
19 ~~order payment, as a condition of probation or parole, of a monthly supervision fee.~~
20 ~~The supervision fee imposed shall be not less than ten nor more than one hundred~~
21 ~~dollars per month and shall be payable to the department or other supervising agency~~
22 ~~to defray the costs of supervision. These funds are only to supplement the level of~~
23 ~~funds that would ordinarily be available from regular state or other appropriations~~
24 ~~the court shall not order the child or the parent or guardian of the child to pay any~~
25 ~~supervision fees as a condition of probation or parole.~~

26 * * *

27 Art. 793.4. Early intervention fund; fees collected

28 A. ~~In all criminal matters except for matters involving traffic violations in~~
29 ~~the parishes of East Baton Rouge, Iberia, St. Mary, and St. Martin, there shall be~~

1 taxed against every defendant who is convicted after trial or after a plea of guilty or
 2 nolo contendere or who forfeits his bond, a sum in the amount of twenty-five dollars
 3 for each misdemeanor and fifty dollars for each felony, which shall be in addition to
 4 all other fines, costs, or forfeitures lawfully imposed, and which shall be transmitted
 5 to the sheriff of the respective parish for further disposition in accordance with the
 6 provisions of this Article. No taxes or fees may be imposed upon any child who is
 7 adjudicated delinquent or convicted after trial or after a plea of guilty or nolo
 8 contendere or who forfeits his bond in any parish, or the parent or guardian of the
 9 child.

* * *

11 Art. 809. Right to counsel

12 A. At every stage of proceedings under this Title, the accused child shall be
 13 entitled to the assistance of counsel at state expense. The court shall appoint counsel
 14 or refer the child for representation by the district public defender. Neither the child
 15 nor the parent or guardian of the child shall be responsible for payment of any
 16 portion of the costs of the child's representation.

* * *

18 Art. 811.2. ~~Victims of juvenile crime compensation fund; established;~~
 19 ~~disbursements~~ Special costs levied against a child

20 A. ~~All courts exercising juvenile jurisdiction may levy a special cost in an~~
 21 ~~amount not to exceed fifteen dollars against any juvenile defendant, other than an~~
 22 ~~indigent, who is found to have committed a traffic violation resulting in injury or~~
 23 ~~property loss, or who pleads guilty to or is adjudicated convicted of a juvenile~~
 24 ~~offense. Such cost shall be in addition to any fine, clerk's fees or costs, or any other~~
 25 ~~fees or costs provided by law.~~

26 B. ~~The clerk of court shall remit two-thirds of the sums collected or received~~
 27 ~~pursuant to this Article for deposit in a special account which is hereby designated~~
 28 ~~as the Victims of Juvenile Crime Compensation Fund. The fund shall be used to~~
 29 ~~compensate victims of juvenile crimes who do not otherwise receive restitution or~~
 30 ~~reparation. The judges of the courts exercising juvenile jurisdiction shall have~~

1 control over the fund and disbursements made therefrom. The judges shall cause to
2 be conducted annually an audit of the fund and the books and accounts relating
3 thereto and shall file the same with the office of the legislative auditor, where it shall
4 be available for public inspection.

5 C. ~~The judges shall provide by court rule for the collection, administration,~~
6 ~~and distribution of the fund in order to implement the purpose of this Article.~~
7 However, no amount greater than five hundred dollars shall be disbursed from the
8 fund to any one claimant.

9 D. ~~The clerk of court shall remit one-third of the total sums collected or~~
10 ~~received pursuant to this Article monthly to the Crime Victims Reparations Fund as~~
11 ~~provided in R.S. 46:1801 et seq.~~

12 No special costs shall be levied against any child who is found to have
13 committed a traffic violation resulting in injury or property loss, or who pleads guilty
14 to or is convicted of or adjudicated delinquent for any related offense, or against the
15 parent or guardian of the child.

16 * * *

17 Art. 839. Availability of an informal adjustment agreement

18 * * *

19 C. When entering an informal adjustment agreement, the court may, with
20 concurrence of the district attorney, utilize or initiate a teen or youth court program,
21 but shall not and may assess a fee to a participant in the program, or the parent or
22 guardian of the participant to offset costs.

23 * * *

24 Art. 848. Notice of right to counsel; form

25 "NOTICE

26 RIGHT TO COUNSEL

27 Under the laws of Louisiana, every child accused of delinquency is entitled
28 to have a lawyer to be present and to assist the child to answer the attached petition.

29 A child is entitled to be represented by a lawyer at every stage of proceedings in the

1 juvenile court, including the right to appeal from any judgment of disposition which
2 might be ordered by the court.

3 The court may appoint a lawyer to assist the child. If the court does appoint
4 a lawyer to assist the child, such appointment shall be at no cost to the child or the
5 parent or guardian of the child.

6 ~~If the parents of an accused child are completely financially unable to afford~~
7 ~~to employ a lawyer, the court will appoint a lawyer and the state will pay for his~~
8 ~~services.~~

9 ~~If the parents are found to be financially able to afford to employ a lawyer but~~
10 ~~fail to employ one, the juvenile court may appoint a lawyer for the child and require~~
11 ~~the parents to pay for the lawyer's services.~~

12 ~~The financial ability or inability of the parents to employ a lawyer will be~~
13 ~~determined by the court after a hearing. The court may require the parents to pay for~~
14 ~~some or all of the costs of lawyer's services on behalf of the child.~~

15 After consulting with the parents or other adult interested in the child's
16 welfare, the child may be permitted by the court to proceed without the assistance
17 of a lawyer. This decision can be made at any time during the proceedings in the
18 juvenile court."

19 * * *
20 Art. 868. Medical treatment of children; costs

21 * * *
22 B. If the parent fails to provide such care, the court may, after due notice to

23 the parent, order the care ~~and order the parent to pay all or part of the expense,~~ but
24 the court shall not order the parent to pay any part of the expense resulting from the
25 order.

26 * * *
27 Art. 888. Physical and mental examination for disposition; costs

28 * * *

1 C. ~~The court may, after due notice to the parent, order the parent to pay all~~
 2 ~~or part of the expense of any evaluation or examination. The court shall make a~~
 3 ~~determination of the parent's ability to pay according to the procedures of Article~~
 4 ~~406. The child, or the parent or guardian of the child, shall not be responsible for the~~
 5 ~~costs arising from an order for a physical or mental examination following an~~
 6 ~~adjudication.~~

7 * * *

8 Art. 896. Deferred dispositional agreement

9 * * *

10 G. Pursuant to the provisions of this Article, the court has the authority to
 11 utilize or initiate a teen or youth court program, but shall not ~~and may~~ assess a fee
 12 to a participant in the program, or the parent or guardian of the participant ~~to offset~~
 13 ~~costs.~~

14 * * *

15 Art. 897. Disposition after adjudication of a felony-grade delinquent act

16 * * *

17 B. As conditions of probation, if ordered pursuant to Subparagraph (A)(3)
 18 of this Article:

19 * * *

20 (2) The court may impose any other term and condition deemed in the best
 21 interests of the child and the public, including:

22 * * *

23 (g) ~~A requirement that the child pay a supervision fee of not less than ten nor~~
 24 ~~more than one hundred dollars per month, payable to the Department of Public~~
 25 ~~Safety and Corrections or other supervising agency, to defray the costs of~~
 26 ~~supervision. The amount of the fee shall be based upon the financial ability of the~~
 27 ~~payor to pay such a fee. The court may order a parent, tutor, guardian, or other~~
 28 ~~person who is financially responsible for the care of the child to be responsible for~~
 29 ~~payment of all or part of any supervision fee imposed. No supervision fee of any~~

1 amount shall be required of the child or of any adult who is financially responsible
2 for the care of the child.

3 * * *

4 Art. 899. Disposition after adjudication of a misdemeanor-grade delinquent act

5 * * *

6 B. As conditions of probation, if ordered pursuant to Subparagraph ~~A(3)~~
7 (A)(3) of this Article:

8 * * *

9 (2) The court may impose any other term and condition deemed in the best
10 interests of the child and the public, including:

11 * * *

12 (g) ~~A requirement that the child pay a monthly supervision fee of not less~~
13 ~~than ten nor more than one hundred dollars per month, payable to the Department of~~
14 ~~Public Safety and Corrections or other supervising agency, to defray the cost of~~
15 ~~supervision. The court may order a parent, tutor, guardian, or other person who is~~
16 ~~financially responsible for the care of the child to be responsible for payment of all~~
17 ~~or part of any supervision fee imposed.~~ No supervision fee of any amount shall be
18 required of the child or of any adult who is financially responsible for the care of the
19 child.

20 * * *

21 Section 5. Code of Criminal Procedure Article 887(I) is hereby enacted to read as
22 follows:

23 Art. 887. Defendant's liability for costs; suspension of costs; no advance costs

24 * * *

25 I. Paragraphs A through H of this Article shall not be construed to authorize
26 any jurisdiction or agency to impose costs of prosecution or proceeding on any
27 juvenile delinquent or any juvenile convicted as an adult, or on the parent or
28 guardian of any juvenile delinquent or the parent or guardian of any juvenile
29 convicted as an adult.

1 Section 6. R.S. 15:910, 1086, 1094.7, and 1097.7, and Children's Code Articles 321,
2 405(D), (E), and (F), 781.1(B), 783, 901.1, and 924(B) and (C) are hereby repealed in their
3 entirety.

4 Section 7. The Louisiana State Law Institute is hereby authorized and directed to
5 review and make necessary changes to the cross-reference in Children's Code Article 405(G)
6 to Chapter 2 of Title XIII of the Children's Code.

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 216 Original

2021 Regular Session

Duplessis

Abstract: Eliminates administrative fees, costs, and taxes related to juvenile delinquency cases.

Under present law, courts are required or allowed to assess administrative fees, costs, and taxes in juvenile delinquency cases. Courts impose these fees, costs, and taxes on juveniles or their parents or guardians.

Present law establishes a judicial expense fund for the Juvenile Courts for Caddo Parish, Orleans Parish, and East Baton Rouge Parish.

Present law allows the fund for the juvenile courts for Caddo Parish, Orleans Parish, and East Baton Rouge Parish to be used for any operating expenses of the courts. Monies for the fund are generated through court fines and court assessed fees and court costs.

Present law allows juvenile detention centers to levy a special cost against a defendant who is convicted of a felony after trial or who enters a plea of guilty or nolo contendere or forfeits bond, excluding traffic offenses and misdemeanors.

Present law also allows for an amount to be deducted from any fine imposed prior to disposition of the fine in lieu of imposing such special costs.

Present law provides that in the parishes of Bienville, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster, in all courts exercising juvenile jurisdiction, special costs in the amount of \$50 shall be levied against every juvenile who is found to have committed a traffic violation or who is adjudicated a delinquent.

Present law provides that the child or the parents or guardians are responsible for the following fees, costs, or taxes, including but not limited to:

- (1) Probation and parole supervision fees.
- (2) Supervision fees associated with the disposition after adjudication of misdemeanor and felony grade delinquent acts.
- (3) Teen or youth court program fee.
- (4) Physical and mental examination fee following an adjudication or for disposition.

- (5) Fees related to lawyer's services when the court appoints a lawyer.
- (6) Special costs against any juvenile defendant who is found to have committed a traffic violation resulting in an injury or property loss or who pleads guilty to or is convicted of a juvenile offense.
- (7) Taxes against every defendant who is convicted after trial or after a plea of guilty or nolo contendere or who forfeits his bond in all criminal matters except for matters involving traffic violations in the parishes of East Baton Rouge, Iberia, St. Mary, and St. Martin.
- (8) Parent's contribution to costs of care and treatment.
- (9) Fee for a copy of the child's transcript for appeal.
- (10) Curator expenses and fees to be paid by the petitioners.

Proposed law eliminates all fees, costs, and taxes in juvenile delinquency cases.

Proposed law authorizes and directs the La. State Law Institute to review and make necessary changes to cross-references in present law.

(Amends R.S. 15:1093(A), R.S. 47:299.1, and Ch.C. Arts. 320(A), 335(D), 405(B) and (G), 607(C), 774(B), 781.1(A), 793.4(A), 809(A), 811.2, 839(C), 848, 868(B), 888(C), 896(G), 897(B)(2)(g), and 899(B)(2)(g); Adds R.S. 13:1595.3(C) and C.Cr.P. Art. 887(I); Repeals R.S. 15:910, 1086, 1094.7, and 1097.7, Ch.C. Arts. 321, 405(D), (E), and (F), 781.1(B), 783, 901.1, and 924(B) and (C))