HLS 21RS-533 ENGROSSED

2021 Regular Session

HOUSE BILL NO. 216

1

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

AN ACT

2 To amend and reenact R.S. 15:1093(A), R.S. 47:299.1, and Children's Code Articles 320(A), 3 335(D), 405(B), 607(C), 774(B), 781.1(A), 793.4(A), 809(A), 811.2, 839(C), 848, 4 868(B), 888(C), 896(G), 897(B)(2)(g), and 899(B)(2)(g), to enact R.S. 13:1595.3(C) 5 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), 6 7 781.1(B), 783, 901.1, and 924(B) and (C), relative to court fees; to eliminate juvenile 8 court fees, costs, and taxes associated with juvenile delinquency cases; and to 9 provide for related matters. 10 Be it enacted by the Legislature of Louisiana: 11 Section 1. R.S. 13:1595.3(C) is hereby enacted to read as follows: 12 §1595.3. Fees; enumeration 13 14 C. No court exercising juvenile jurisdiction in any parish in the state of 15 Louisiana shall tax or assess costs in a juvenile delinquency proceeding against any 16 juvenile delinquent or defendant, or the parents or guardians of the juvenile 17 delinquent or defendant, for any judicial expenses or to cover any operating expenses 18 of the court; including but not limited to, any salaries of court personnel, the

1	establishment or maintenance of a law library for the court, or the purchase or
2	maintenance of any type of equipment or supplies.
3	* * *
4	Section 2. R.S. 15:1093(A) is hereby amended and reenacted to read as follows:
5	§1093. Juvenile detention centers; special court costs
6	A. The district court in any parish which is also contained within the
7	jurisdiction of any juvenile detention center may levy special costs in the amount of
8	fifty dollars against every defendant who is convicted of a felony after trial or who
9	enters a plea of guilty or nolo contendere or forfeits bond, excluding traffic offenses
10	and misdemeanors shall not levy special costs against a defendant who is adjudicated
11	delinquent, convicted of a felony, or who enters a plea of guilty or nolo contendere
12	or forfeits bond.
13	* * *
14	Section 3. R.S. 47:299.1 is hereby amended and reenacted to read as follows:
15	299.1. Purpose
16	A. The purpose of this Part is to establish a system to permit agencies of the
17	state of Louisiana to make a claim of offset to the secretary of revenue against any
18	amounts refundable to an individual because of overpayments of Louisiana
19	individual income taxes for debts owed by the individual to such agencies. It is the
20	intention of the legislature that this offset remedy be in addition to and not in
21	substitution of any other remedy or action provided for by law in favor of such
22	agency for the collection of debts.
23	B. Any debts resulting from a delinquency adjudication are exempted from
24	the provisions of this Section.
25	C. Any debts resulting from the conviction of a person who was a child at
26	the time of their offense are exempt from the provisions of this Section.
27	Section 4. Children's Code Articles 320(A), 335(D), 405(B), 607(C), 774(B),
28	781.1(A), 793.4(A), 809(A), 811.2, 839(C), 848, 868(B), 888(C), 896(G), 897(B)(2)(g), and
29	899(B)(2)(g) are hereby amended and reenacted to read as follows:

1	Art. 320. Indigency determination
2	A. For purposes of the appointment of counsel, children are presumed to be
3	indigent, regardless of court jurisdiction.
4	* * *
5	Art. 335. Preparation of record; costs
6	* * *
7	D. If a child desires a transcript for appeal, he or his parents shall pay the
8	cost of transcription of the record unless the court determines that the child and his
9	parents lack means to pay such cost one shall be provided at no expense to the child,
10	or the parent or guardian of the child.
11	* * *
12	Art. 405. Court or witness fees; travel expenses
13	* * *
14	B. The court may authorize the payment of necessary travel expenses to
15	witnesses attending in response to summons. Travel expenses, when authorized by
16	the court, shall be paid from the general fund of the parish or other funds available
17	to the court. Except in proceedings initiated by the state, the court may authorize the
18	payment of curator expenses and fees, which, if so authorized, shall be fixed by the
19	court and paid by petitioners, unless the petitioner is a child or the parent or guardian
20	of a child petitioner. In such a case, no fees shall be assigned to the child or the
21	parent or guardian of the child.
22	* * *
23	Art. 607. Child's right to appointed counsel; payment
24	* * *
25	C. If the court finds that the parents of the child are financially able, it may
26	order the parents to pay some or all of the costs of the child's representation in
27	accordance with Children's Code Articles 320 and 321. Representation shall be
28	provided to the child at no expense to the child, or the parent or guardian of the child.
29	* * *

Art. 774. Physical and mental examination for disposition

2 \* \* \*

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

\* \* \*

# Art. 781.1. Probation and parole supervision fees

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

21 \* \* \*

### Art. 793.4. Early intervention fund; fees collected

A. In all criminal matters except for matters involving traffic violations in the parishes of East Baton Rouge, Iberia, St. Mary, and St. Martin, there shall be taxed against every defendant who is convicted after trial or after a plea of guilty or nolo contendere or who forfeits his bond, a sum in the amount of twenty-five dollars for each misdemeanor and fifty dollars for each felony, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed, and which shall be transmitted to the sheriff of the respective parish for further disposition in accordance with the

provisions of this Article. No taxes or fees may be imposed on any person who was under eighteen years of age when committing acts for which they were adjudicated delinquent or convicted after trial or after a plea of guilty or nolo contendere or who forfeits his bond in any parish, or the parent or guardian of the child.

\* \* \*

Art. 809. Right to counsel

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

\* \* \*

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

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

B. The clerk of court shall remit two-thirds of the sums collected or received pursuant to this Article for deposit in a special account which is hereby designated as the Victims of Juvenile Crime Compensation Fund. The fund shall be used to compensate victims of juvenile crimes who do not otherwise receive restitution or reparation. The judges of the courts exercising juvenile jurisdiction shall have control over the fund and disbursements made therefrom. The judges shall cause to be conducted annually an audit of the fund and the books and accounts relating thereto and shall file the same with the office of the legislative auditor, where it shall be available for public inspection.

1	C. The judges shall provide by court rule for the collection, administration,
2	and distribution of the fund in order to implement the purpose of this Article.
3	However, no amount greater than five hundred dollars shall be disbursed from the
4	fund to any one claimant.
5	D. The clerk of court shall remit one-third of the total sums collected or
6	received pursuant to this Article monthly to the Crime Victims Reparations Fund as
7	provided in R.S. 46:1801 et seq.
8	No special costs shall be levied against any child who pleads guilty to or is
9	convicted of or adjudicated delinquent for any offense, or against the parent or
10	guardian of the child, except for matters involving traffic violations or child support.
11	* * *
12	Art. 839. Availability of an informal adjustment agreement
13	* * *
14	C. When entering an informal adjustment agreement, the court may, with
15	concurrence of the district attorney, utilize or initiate a teen or youth court program,
16	but shall not and may assess a fee to a participant in the program, or the parent or
17	guardian of the participant to offset costs.
18	* * *
19	Art. 848. Notice of right to counsel; form
20	"NOTICE
21	RIGHT TO COUNSEL
22	Under the laws of Louisiana, every child accused of delinquency is entitled
23	to have a lawyer to be present and to assist the child to answer the attached petition.
24	A child is entitled to be represented by a lawyer at every stage of proceedings in the
25	juvenile court, including the right to appeal from any judgment of disposition which
26	might be ordered by the court.
27	The court may appoint a lawyer to assist the child. If the court does appoint
28	a lawyer to assist the child, such appointment shall be at no cost to the child or the
29	parent or guardian of the child.

1	If the parents of an accused child are completely financially unable to afford
2	to employ a lawyer, the court will appoint a lawyer and the state will pay for his
3	services.
4	If the parents are found to be financially able to afford to employ a lawyer but
5	fail to employ one, the juvenile court may appoint a lawyer for the child and require
6	the parents to pay for the lawyer's services.
7	The financial ability or inability of the parents to employ a lawyer will be
8	determined by the court after a hearing. The court may require the parents to pay for
9	some or all of the costs of lawyer's services on behalf of the child.
10	After consulting with the parents or other adult interested in the child's
11	welfare, the child may be permitted by the court to proceed without the assistance
12	of a lawyer. This decision can be made at any time during the proceedings in the
13	juvenile court."
14	* * *
15	Art. 868. Medical treatment of children; costs
16	* * *
17	B. If the parent fails to provide such care, the court may, after due notice to
18	the parent, order the care and order the parent to pay all or part of the expense, but
19	the court shall not order the parent to pay any part of the expense resulting from the
20	order.
21	* * *
22	Art. 888. Physical and mental examination for disposition; costs
23	* * *
24	C. The court may, after due notice to the parent, order the parent to pay all
25	or part of the expense of any evaluation or examination. The court shall make a
26	determination of the parent's ability to pay according to the procedures of Article
27	406. The child, or the parent or guardian of the child, shall not be responsible for the

1	costs arising from an order for a physical or mental examination following an
2	adjudication.
3	* * *
4	Art. 896. Deferred dispositional agreement
5	* * *
6	G. Pursuant to the provisions of this Article, the court has the authority to
7	utilize or initiate a teen or youth court program, but shall not and may assess a fee
8	to a participant in the program, or the parent or guardian of the participant to offset
9	<del>costs</del> .
10	* * *
1	Art. 897. Disposition after adjudication of a felony-grade delinquent act
12	* * *
13	B. As conditions of probation, if ordered pursuant to Subparagraph (A)(3)
14	of this Article:
15	* * *
16	(2) The court may impose any other term and condition deemed in the best
17	interests of the child and the public, including:
18	* * *
19	(g) A requirement that the child pay a supervision fee of not less than ten nor
20	more than one hundred dollars per month, payable to the Department of Public
21	Safety and Corrections or other supervising agency, to defray the costs of
22	supervision. The amount of the fee shall be based upon the financial ability of the
23	payor to pay such a fee. The court may order a parent, tutor, guardian, or other
24	person who is financially responsible for the care of the child to be responsible for
25	payment of all or part of any supervision fee imposed. No supervision fee of any
26	amount shall be required of the child or of any adult who is financially responsible
27	for the care of the child.
28	* * *
29	Art. 899. Disposition after adjudication of a misdemeanor-grade delinquent act
30	* * *

1	B. As conditions of probation, if ordered pursuant to Subparagraph $A(3)$
2	(A)(3) of this Article:
3	* * *
4	(2) The court may impose any other term and condition deemed in the best
5	interests of the child and the public, including:
6	* * *
7	(g) A requirement that the child pay a monthly supervision fee of not less
8	than ten nor more than one hundred dollars per month, payable to the Department of
9	Public Safety and Corrections or other supervising agency, to defray the cost of
10	supervision. The court may order a parent, tutor, guardian, or other person who is
11	financially responsible for the care of the child to be responsible for payment of all
12	or part of any supervision fee imposed. No supervision fee of any amount shall be
13	required of the child or of any adult who is financially responsible for the care of the
14	child.
15	* * *
16	Section 5. Code of Criminal Procedure Article 887(I) is hereby enacted to read as
17	follows:
18	Art. 887. Defendant's liability for costs; suspension of costs; no advance costs
19	* * *
20	I. Paragraphs A through H of this Article shall not be construed to authorize
21	any jurisdiction or agency to impose costs of prosecution or proceeding on any
22	juvenile delinquent or any juvenile convicted as an adult, or on the parent or
23	guardian of any juvenile delinquent or the parent or guardian of any juvenile
24	convicted as an adult.
25	Section 6. R.S. 15:910, 1086, 1094.7, and 1097.7, and Children's Code Articles 321,
26	405(D), (E), and (F), 781.1(B), 783, 901.1, and 924(B) and (C) are hereby repealed in their
27	entirety.
28	Section 7. The provisions of this Act shall not be applicable to the enforcement of
29	fines or restitution in juvenile delinquency cases.

- 1 Section 8. The Louisiana State Law Institute is hereby authorized and directed to
- 2 review and make necessary changes to the cross-reference in Children's Code Article 405(G)
- 3 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 Engrossed

2021 Regular Session

Duplessis

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

Under <u>present law</u>, 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.

<u>Present law</u> establishes a judicial expense fund for the juvenile courts for Caddo Parish, Orleans Parish, and East Baton Rouge Parish.

<u>Present law</u> 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.

<u>Present law</u> 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.

<u>Present law</u> 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.

<u>Present law</u> 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.

<u>Present law</u> 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.

## Page 10 of 11

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

- (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.

<u>Proposed law</u> eliminates certain fees, costs, and taxes in juvenile delinquency cases, and specifies that <u>proposed law</u> is applicable to persons under 18 years of age.

<u>Proposed law</u> provides an exception from <u>proposed law</u> for matters involving traffic violations or child support.

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

<u>Proposed law</u> provides that the provisions of this Act shall not be applicable to the enforcement of fines or restitution in juvenile delinquency cases.

(Amends R.S. 15:1093(A), R.S. 47:299.1, and Ch.C. Arts. 320(A), 335(D), 405(B), 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, and Ch.C. Arts. 321, 405(D), (E), and (F), 781.1(B), 783, 901.1, and 924(B) and (C))

## Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Judiciary</u> to the <u>original</u> bill:

- 1. Make technical changes.
- 2. Specify no taxes and costs be assessed in a juvenile delinquency proceeding.
- 3. Remove <u>proposed law</u> changes to Ch.C. Art. 405(G) relative to imposing fees against the child.
- 4. Reinsert present law (Ch.C. Art. 793.4).
- 5. Specify applicability of <u>proposed law</u> to persons under 18 years of age.
- 6. Prohibit taxes from being levied against any child.
- 7. Provide an exception from <u>proposed law</u> for matters involving traffic violations or child support.