

2023 Regular Session

HOUSE BILL NO. 54

BY REPRESENTATIVES SCHLEGEL AND HILFERTY

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

JUVENILES: Provides relative to the discretion of the district attorney to prosecute a juvenile as an adult for certain offenses

1 AN ACT

2 To amend and reenact Children's Code Article 305(A)(2) and (B)(3), relative to criminal
3 court jurisdiction over children; to provide relative to the discretion of the district
4 attorney to prosecute a juvenile as an adult for certain offenses; to provide relative
5 to the failure to initiate prosecution; to provide relative to time limitations for
6 prosecution; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Article 305(A)(2) and (B)(3) are hereby amended and
9 reenacted to read as follows:

10 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
11 jurisdiction over children

12 A.

13 * * *

14 (2)(a) The district attorney shall have the discretion to file a petition alleging
15 any of the offenses listed in Subparagraph (1) of this Paragraph in the juvenile court
16 or, alternatively, to obtain an indictment. If the child is being held in detention, the
17 district attorney shall file the petition or indictment in the appropriate court within
18 ~~thirty~~ sixty calendar days after the child's arrest, unless the child waives this right.

19 (b) Failure to institute prosecution as provided in this Subparagraph shall
20 result in release of the child if, after a contradictory hearing with the district attorney,

1 just cause for the failure is not shown. If just cause is shown, the court shall
2 reconsider bail for the child. Failure to institute prosecution as provided in this
3 Subparagraph shall result in the release of the bail obligation if, after a contradictory
4 hearing with the district attorney, just cause for the delay is not shown.

5 (c) When the juvenile court holds a continued custody hearing pursuant to
6 Articles 819 and 820 and finds probable cause that the child committed one of the
7 offenses listed in Subparagraph (1) of this Paragraph, the time limitations contained
8 in this Code are inapplicable and the time period for filing an indictment after arrest
9 shall be governed by Code of Criminal Procedure Article 701.

10 * * *

11 B.

12 * * *

13 (3)(a) The district attorney shall have the discretion to file a petition alleging
14 any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court
15 or, alternatively, to obtain an indictment or file a bill of information. If the child is
16 being held in detention, the district attorney shall file the indictment, bill of
17 information, or petition in the appropriate court within ~~thirty~~ sixty calendar days after
18 the child's arrest, unless the child waives this right.

19 (b) Failure to institute prosecution as provided in this Subparagraph shall
20 result in release of the child if, after a contradictory hearing with the district attorney,
21 just cause for the failure is not shown. If just cause is shown, the court shall
22 reconsider bail for the child. Failure to institute prosecution as provided in this
23 Subparagraph shall result in the release of the bail obligation if, after a contradictory
24 hearing with the district attorney, just cause for the delay is not shown.

25 * * *

26 Section 2. The provisions of this Act shall be cited and referred to as "The Juvenile
27 Transfer Act".

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 54 Original

2023 Regular Session

Schlegel

Abstract: Provides relative to the time limitations on district attorneys to initiate prosecution of a juvenile as an adult for certain offenses.

Present law (Ch.C. Art. 305(A)(1)) subjects a child who is 15 years of age or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnapping to the exclusive jurisdiction of the juvenile court until either an indictment charging one of these offenses is returned or the juvenile court holds a continued custody hearing pursuant to present law (Ch.C. Arts. 819 and 820) and finds probable cause that he committed one of these offenses.

Proposed law retains present law.

Present law (Ch.C. Art. 305(A)(2)(a)) provides the district attorney with the discretion to file a petition alleging any of the offenses listed in present law (Ch.C. Art. 305(A)(1)) in the juvenile court or, alternatively, to obtain an indictment. Further provides that if the child is being held in detention, the district attorney shall file the petition or indictment in the appropriate court within 30 calendar days after the child's arrest, unless the child waives this right.

Proposed law amends present law to increase the amount of days that the district attorney has to file the petition or indictment from 30 days to 60 days.

Proposed law provides that the failure to institute prosecution as provided in proposed law shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown.

Proposed law provides that if just cause is shown, the court shall reconsider bail for the child. Further provides that the failure to institute prosecution as provided in proposed law shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

Proposed law provides that when the juvenile court holds a continued custody hearing pursuant to present law (Ch.C. Arts. 819 and 820) and finds probable cause that the child committed one of the offenses listed in present law (Ch.C. Art. 305(A)(1)), the time limitations contained in present law are inapplicable and the time period for filing an indictment after arrest shall be governed by other present law (C.Cr.P. Art. 701).

Present law (Ch.C. Art. 305(B)(1)) subjects a child who is 15 years of age or older at the time of any of the offenses listed in present law (Ch.C. Art. 305(B)(2)) to the exclusive jurisdiction of the juvenile court until either an indictment charging one of these offenses is returned or the juvenile court holds a continued custody hearing and finds probable cause that he committed one of these offenses.

Proposed law retains present law.

Present law (Ch.C. Art. 305(B)(3)) provides the district attorney with the discretion to file a petition alleging any of the offenses listed in present law (Ch.C. Art. 305(B)(2)) in the juvenile court or, alternatively, to obtain an indictment. Further provides that if the child is being held in detention, the district attorney shall file the indictment, bill of information, or

petition in the appropriate court within 30 calendar days after the child's arrest, unless the child waives this right.

Proposed law amends present law to increase the amount of days that the district attorney has to file the indictment, bill of information, or petition from 30 days to 60 days.

Proposed law provides that the failure to institute prosecution as provided in proposed law shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown.

Proposed law provides that if just cause is shown, the court shall reconsider bail for the child. Further provides that the failure to institute prosecution as provided in proposed law shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

Proposed law shall be cited and referred to as "The Juvenile Transfer Act".

(Amends Ch.C. Art. 305(A)(2) and (B)(3))