

CONFERENCE COMMITTEE REPORT

HB 523

2023 Regular Session

LaCombe

June 7, 2023

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 523 by Representative LaCombe, recommend the following concerning the Reengrossed bill:

- 1. That Senate Committee Amendment No. 1 by the Committee on Judiciary B (#2096) be rejected.
- 2. That Senate Committee Amendment Nos. 2 and 3 by the Committee on Judiciary B (#2096) be adopted.
- 3. That the set of Senate Floor Amendments by Senator Smith (#2246) be adopted.
- 4. That the following amendments be adopted:

AMENDMENT NO. 1

On page 1, delete line 3 and insert the following:

"and (G), R.S. 15:1110(C)(1)(introductory paragraph), (D), (E), and (H), to enact Children's Code Article 815(F) and R.S. 15:1110.3, and to repeal R.S. 15:1110(F) through (I), 1110.1, and 1110.2, relative to the custody of"

AMENDMENT NO. 2

In Senate Committee Amendment No. 3 by the Senate Committee on Judiciary B (#2096), on page 1, delete line 12 and insert the following:

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

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

* * *

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

* * *

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

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

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

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

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

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

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

* * *

H. On or before July 1, 2013, all juvenile detention facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or public agency, shall be licensed in accordance with rules promulgated pursuant to the provisions of Subsection G of this Section. The Department of Children and Family Services shall be responsible for licensing and regulating juvenile detention facilities until July 1, 2024, when the licensing authority is transferred to the office of juvenile justice pursuant to R.S. 15:1110.3.

* * *"

AMENDMENT NO. 3

In Senate Committee Amendment No. 3 by the Senate Committee on Judiciary B (#2096), on page 2, delete lines 38 through 57 and insert the following:

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

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

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

(2) Specific factors for determining the type of sanctions to be imposed including severity of risk, actual harm, failure to implement a written corrective action plan, mitigating circumstances, the history of noncompliance and an explanation of the treatment of continuing noncompliance, an explanation of the treatment of continuing repeat deficiencies, evidence of good faith effort to comply, and any other relevant factors.

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

AMENDMENT NO. 4

In Senate Committee Amendment No. 3 by the Senate Committee on Judiciary B (#2096), on page 2, line 60, after "Section 4.(A)" and before "Sections" insert "The provisions of this Section and"

Respectfully submitted,

Representative Jeremy S. LaCombe

Senator Gary L. Smith Jr.

Representative Joseph A. Marino, III

Senator Cameron Henry

Representative John M. Stefanski

Senator Joseph Bouie Jr.

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 523

2023 Regular Session

LaCombe

Keyword and oneliner of the instrument as it left the House

JUVENILES/DETENTION FAC: Provides relative to juvenile detention facilities

Report adopts Senate amendments to:

1. Transfer licensing and regulatory authority of juvenile detention facilities and associated fines and fees from the Dept. of Children and Family Services to OJJ, effective July 1, 2024.
2. Provide for effective dates.

Report rejects Senate amendments which would have:

1. Made technical changes.

Report amends the bill to:

1. Change requirements relative to detention screening instruments.
2. Add provision that Dept. of Children and Family Services shall be responsible for licensing and regulating juvenile detention facilities until July 1, 2024, when the licensing authority is transferred to the office of juvenile justice.
3. Remove rulemaking requirements relative to criteria for risk evaluations.
4. Change procedure for an individual to appeal inclusion on the state central registry to align with procedures provided for in present law.
5. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law (Ch.C. Art. 306) provides for the detention of juveniles who are subject to criminal court jurisdiction.

Proposed law retains present law.

Present law (Ch.C. Art. 306(B)) provides that if a detention facility for juveniles is not available, he may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete these activities for up to six hours, except that in nonmetropolitan areas, he may be held for up to 24 hours if certain conditions occur.

Proposed law retains present law, but changes the length of time that a juvenile may be held in an adult jail or lockup from 24 hours to 48 hours if certain conditions occur.

Present law (Ch.C. Art. 306(B)(2)) provides that one of the conditions that may result in a juvenile being placed in an adult jail or lockup is when a continued custody hearing in accordance with present law (Ch.C. Arts. 820 and 821) is held within 24 hours after his arrest.

Proposed law retains present law, but changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Present law (Ch.C. Art. 306(C)) provides that if an indictment has not been returned, a bill of information filed, or a continued custody hearing not held within 24 hours, the child held in an adult jail or lockup in a nonmetropolitan area shall be released or removed to a juvenile detention facility.

Proposed law retains present law, but changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Present law (Ch.C. Art. 306(G)) provides that a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305) shall not be detained prior to trial in a juvenile detention facility after reaching the age of 18 if the governing authority with funding responsibility for the juvenile detention facility objects to such detention.

Proposed law amends present law to provide that a child who is subject to criminal jurisdiction pursuant to present law (Ch.C. Art. 305) and being held in a juvenile detention facility before trial shall be transferred to the appropriate adult facility for continued pretrial detention upon reaching the age of 18.

Present law (Ch.C. Art. 815) provides relative to the place of detention for a child taken into custody.

Proposed law retains present law.

Proposed law provides that if a juvenile detention center is not available, a juvenile may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete the activities for up to six hours, except that in nonmetropolitan areas, he may be held for up to 48 hours if all of the following occur:

- (1) The juvenile is accused of a nonstatus offense.
- (2) A continued custody hearing is held within 48 hours after his arrest.
- (3) There is no acceptable alternative placement to the jail or lockup in which he is being held.
- (4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist that provide for sight and sound separation of the juvenile from adult offenders and the juvenile can be given continuous visual supervision while placed in the jail or lockup.

Present law provides that on or after July 1, 2020, a detention screening instrument shall be administered for any child placed in secure detention when taken into custody without a court order pursuant to Ch.C. Art. 814 for alleged commission of a delinquent act.

Proposed law retains present law and adds that the instrument shall be as provided in Ch.C. Art. 815.

Proposed law repeals present law that requires jurisdictions to submit alternative detention screening instruments to the JDAI Collaborative for approval no later than April 1, 2020.

Present law authorizes an individual whose name is or was entered on the state central registry to make a formal written request to the division of administrative law for an

administrative appeal of the justified determination, in accordance with Ch.C. Art. 616.1.1 and the procedures promulgated by the office.

Proposed law retains present law but authorizes the individual who is the subject of the finding to instead file a written motion seeking correction to the division of administrative law.

Change procedure for an individual to appeal inclusion on the state central registry to align with procedures provided for in present law.

Proposed law provides that beginning July 1, 2024, all juvenile detention facilities, including facilities owned or operated by any governmental, for profit, nonprofit, private, or public agency, shall be licensed and regulated by the office of juvenile justice (OJJ).

Proposed law provides for an annual license fee for any license issued to a detention facility to be used by the OJJ for expenses related to the licensing program, as follows:

- (1) \$400 for a detention facility authorized to care for six or fewer juveniles.
- (2) \$500 for a detention facility authorized to care for at least seven but not more than fifteen juveniles.
- (3) \$600 for a detention facility authorized to care for sixteen or more juveniles

Proposed law provides that an entity operating a juvenile detention facility without a valid license issued by the OJJ be fined \$1,000 for each day of operation without the valid license.

Proposed law authorizes the OJJ to file suit against an entity operating a juvenile detention facility without a valid license issued by the OJJ in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

Proposed law prohibits any person from operating a juvenile detention facility in violation of any provision of present law, proposed law, or any other state or federal statute, regulation, or any rule adopted pursuant to the APA that governs the ownership or operation of juvenile detention facilities.

Proposed law authorizes OJJ to issue a written warning that includes a corrective action plan to any person or entity violating these requirements when the violation creates a condition or occurrence relating to the operation and maintenance of a juvenile detention facility that does not pose an imminent threat to the health, safety, rights, or welfare of a child.

Proposed law provides that any appeal of any OJJ decision for a violation be suspensive, with any appeals filed to be heard by the division of administrative law.

Proposed law authorizes the OJJ to institute all necessary civil court actions to collect fines imposed that are not timely appealed.

Proposed law requires any civil fines collected to be deposited immediately into the state treasury and deposited in the "Juvenile Detention Licensing Trust Fund".

Proposed law requires that the monies in the fund be subject to annual appropriation and be available exclusively for use by OJJ for the education and training of employees, staff, or other personnel of juvenile detention facilities.

Proposed law prohibits any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility that is requesting licensure or is licensed by the OJJ from being employed by the facility if that individual's name is recorded on the state central registry as a perpetrator for a justified finding of abuse or neglect of a child.

Proposed law requires the OJJ to promulgate rules and regulations in accordance with the APA, with the rules containing at a minimum the following:

- (1) Licensing standards for juvenile detention centers that comport with nationally recognized and accepted best practice standards.
- (2) Specific factors for determining the type of sanctions to be imposed including severity of risk, actual harm, failure to implement a written corrective action plan, mitigating circumstances, the history of noncompliance and an explanation of the treatment of continuing noncompliance, an explanation of the treatment of continuing repeat deficiencies, evidence of good faith effort to comply, and any other relevant factors.
- (3) The process to provide notice to a juvenile detention facility of any violation, reconsideration process for sanctions issued, and an appeal procedure, including judicial review.

Proposed law provides that the Dept. of Children and Family Services shall be responsible for licensing and regulating juvenile detention facilities until July 1, 2024, when the licensing authority is transferred to the OJJ.

Proposed law repeals present law (effective July 1, 2024) that requires licensing to be conducted by the Dept. of Children and Family Services.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends Ch.C. Art. 306(B)(intro. para.) and (2), (C), and (G) and R.S. 15:1110(C)(1)(intro. para.), (D), (E), and (H); Adds Ch.C. Art. 815(F) and R.S. 15:1110.3; Repeals R.S. 15:1110(F) through (I), 1110.1, and 1110.2)