

RÉSUMÉ DIGEST

ACT 445 (HB 523)

2023 Regular Session

LaCombe

Existing law provides for the detention of juveniles who are subject to criminal court jurisdiction.

Existing law provides that if a detention facility for juveniles 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 these activities for up to six hours, except that in nonmetropolitan areas, the juvenile may be held for up to 24 hours if certain conditions occur.

New law 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.

Existing law 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 existing law is held within 24 hours after his arrest.

New law changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Existing 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.

New law changes the length of time for the occurrence of a continued custody hearing from 24 hours to 48 hours.

Existing law provides that a child who is subject to criminal jurisdiction pursuant to existing law 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.

New law amends existing law to provide that a child who is subject to criminal jurisdiction pursuant to existing law 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.

Existing law provides relative to the place of detention for a child taken into custody.

New 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.

Existing 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.

New law adds that the instrument shall be as provided in Ch.C. Art. 815.

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

Existing 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.

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

New law changes the procedure for an individual to appeal inclusion on the state central registry to align with procedures provided for in existing law.

New 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).

New 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 15 juveniles.
- (3) \$600 for a detention facility authorized to care for 16 or more juveniles

New 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.

New 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.

New law prohibits any person from operating a juvenile detention facility in violation of any provision of existing law, new 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.

New 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.

New 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.

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

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

New 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.

New 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.

New 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.

New 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.

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

Effective upon signature of governor (June 28, 2023).

(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)