

2024 Regular Session

HOUSE BILL NO. 210

BY REPRESENTATIVE VILLIO

JUVENILES/JURISDICTION: Provides relative to the prosecution of a juvenile as an adult for certain offenses

1 AN ACT

2 To amend and reenact Children's Code Articles 305(A)(1) and (B)(2) and 857(C) and to
3 enact Children's Code Article 305(F), relative to criminal court jurisdiction over
4 children; to provide relative to the divestiture of the juvenile court's jurisdiction for
5 certain offenses committed by juveniles; to provide relative to detention of juveniles
6 prior to trial; to provide for a court assessment of juveniles under certain
7 circumstances; to provide relative to time limitations to commence prosecution; to
8 provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Children's Code Articles 305(A)(1) and (B)(2) and 857(C) are hereby
11 amended and reenacted and Children's Code Article 305(F) is hereby enacted to read as
12 follows:

13 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
14 jurisdiction over children

15 A.(1) When a child is fifteen years of age or older at the time of the
16 commission of ~~first degree murder, second degree murder, aggravated or first degree~~
17 ~~rape, or aggravated kidnapping~~ any crime punishable by life imprisonment, he is
18 subject to the exclusive jurisdiction of the juvenile court until either:

19 (a) An indictment charging ~~one of these offenses~~ any crime punishable by
20 life imprisonment is returned.

1 (b) The juvenile court holds a continued custody hearing pursuant to Articles
2 819 and 820 and finds probable cause that he committed ~~one of these offenses~~ any
3 crime punishable by life imprisonment, whichever occurs first. During this hearing,
4 when the child is charged with aggravated or first degree rape, the court shall inform
5 him that if convicted he shall register as a sex offender for life, pursuant to Chapter
6 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

7 * * *

8 B.(1) When a child is fifteen years of age or older at the time of the
9 commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he
10 is subject to the exclusive jurisdiction of the juvenile court until whichever of the
11 following occurs first:

12 (2)(a) ~~Attempted first degree murder.~~ Any crime of violence or attempted
13 crime of violence defined in R.S. 14:2(B) punishable by a maximum sentence of
14 twenty years imprisonment or more.

15 (b) ~~Attempted second degree murder.~~ Any crime which has as an element
16 the death of a human being punishable by a maximum sentence of twenty years
17 imprisonment or more.

18 (c) ~~Manslaughter.~~ Aggravated escape or attempted aggravated escape,
19 simple escape or attempted simple escape, or any crime of violence or attempted
20 crime of violence defined in R.S. 14:2(B) committed while in custody of the office
21 of juvenile justice.

22 (d) ~~Armed robbery.~~

23 (e) ~~Aggravated burglary.~~

24 (f) ~~Forcible or second degree rape.~~

25 (g) ~~Simple or third degree rape.~~

26 (h) ~~Second degree kidnapping.~~

27 (i) ~~Repealed by Acts 2001, No. 301, §2.~~

28 (j) ~~Aggravated battery committed with a firearm.~~

29 (k) ~~A second or subsequent aggravated battery.~~

- 1 ~~(l) A second or subsequent aggravated burglary.~~
- 2 ~~(m) A second or subsequent offense of burglary of an inhabited dwelling.~~
- 3 ~~(n) A second or subsequent felony-grade violation of Part X or X-B of~~
- 4 ~~Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 involving the~~
- 5 ~~manufacture, distribution, or possession with intent to distribute controlled~~
- 6 ~~dangerous substances.~~

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8 F. In determining under Subparagraphs (A)(3) and (B)(4) of this Article

9 whether a child will be transferred to the appropriate adult facility for detention prior

10 to trial as an adult, the appropriate court exercising criminal jurisdiction shall

11 consider all of the following:

- 12 (1) The age of the child.
- 13 (2) The physical and mental maturity of the child.
- 14 (3) The present mental state of the child, including whether the child presents
- 15 an imminent risk of harm to himself.
- 16 (4) The nature and circumstances of the alleged offense.
- 17 (5) The child's history of prior delinquent acts.
- 18 (6) The relative ability of the available adult and juvenile detention facilities
- 19 to not only meet the specific needs of the child but also to protect the safety of the
- 20 public as well as other detained youth.
- 21 (7) Any other relevant factors.

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23 Art. 857. Transfers for criminal prosecution; authority

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25 C.(1) An adult who is charged with an offense committed at the time he was

26 a child for which the time limitation for the institution of prosecution pursuant to the

27 Code of Criminal Procedure Article 571 has not lapsed and for which he was subject

28 to prosecution as an adult due to his age at the time the offense was committed shall

- (1) An indictment charging any crime punishable by life imprisonment is returned.
- (2) 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 any crime punishable by life imprisonment, whichever occurs first.

Present law (Ch.C. Art. 305(B)(2)) provides for a list of offenses that, at the time of commission, subject a child of 15 years of age or older to the exclusive jurisdiction of the juvenile court until certain divesting events occur first. Present law further provides for these offenses as follows:

- (1) Attempted first degree murder.
- (2) Attempted second degree murder.
- (3) Manslaughter.
- (4) Armed robbery.
- (5) Aggravated burglary.
- (6) Forcible or second degree rape.
- (7) Simple or third degree rape.
- (8) Second degree kidnapping.
- (9) Aggravated battery committed with a firearm.
- (10) A second or subsequent aggravated battery.
- (11) A second or subsequent aggravated burglary.
- (12) A second or subsequent offense of burglary of an inhabited dwelling.
- (13) A second or subsequent felony-grade violation of present law (Part X or X-B of Ch. 4 of Title 40 of the La. Revised Statutes of 1950) involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

Proposed law changes these offenses as follows:

- (1) Any crime of violence or attempted crime of violence defined in present law (R.S. 14:2(B)) punishable by a maximum sentence of 20 years imprisonment or more.
- (2) Any crime which has as an element the death of a human being punishable by a maximum sentence of 20 years imprisonment or more.
- (3) Aggravated escape or attempted aggravated escape, simple escape or attempted simple escape, or any crime of violence or attempted crime of violence defined in present law (R.S. 14:2(B)) committed while in custody of the office of juvenile justice.

Proposed law provides that in determining under present law whether a child will be transferred to the appropriate adult facility for detention prior to trial as an adult, the appropriate court exercising criminal jurisdiction shall consider all of the following:

- (1) The age of the child.

- (2) The physical and mental maturity of the child.
- (3) The present mental state of the child, including whether the child presents an imminent risk of harm to himself.
- (4) The nature and circumstances of the alleged offense.
- (5) The child's history of prior delinquent acts.
- (6) The relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the child but also to protect the safety of the public as well as other detained youth.
- (7) Any other relevant factors.

Present law (Ch.C. Art. 857(C)) provides that an adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to present law (C.Cr.P. Art. 571) has not lapsed and for which he was subject to prosecution as an adult due to his age at the time the offense was committed shall be prosecuted as an adult in the appropriate court exercising criminal jurisdiction.

Proposed law amends present law to include all offenses contained in present law (C.Cr.P.) for which the time limitation for the institution of prosecution has not lapsed and for which the adult was not subject to prosecution as an adult due to his age at the time the offense was committed shall be prosecuted as an adult.

Proposed law shall become effective on Jan. 1, 2025, if the amendment of present constitution (Const. Art. V, §19) contained in the Act which originated as HB No. ___ of the 2024 R.S. is adopted at a statewide election and becomes effective.

(Amends Ch.C. Arts. 305(A)(1) and (B)(2) and 857(C); Adds Ch.C. Art. 305(F))