

2020 Regular Session

SENATE BILL NO. 34

BY SENATOR CONNICK

JUVENILE JUSTICE. Removes the requirement that a district attorney must be granted leave of court before amending a delinquency petition. (8/1/20)

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AN ACT

To amend and reenact Children's Code Article 846(A) and (B) and to enact Children's Code Article 846(D), relative to petitions in delinquency proceedings; to remove the requirement that a district attorney be granted leave of court before amending a delinquency petition under certain circumstances; to provide for a continuance of delinquency proceedings under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 846(A) and (B) are hereby amended and reenacted and Children's Code Article 846(D) is hereby enacted to read as follows:

Art. 846. Amendment of petition

A. ~~With leave of court, the~~ The petitioner may amend the petition at any time to cure any defects of form, imperfection, omission, uncertainty, or variance between the allegations of the petition and the evidence offered in support thereof.

B. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for

1 adjudication. However, if such leave is granted, the child may request a continuance
 2 of the adjudication hearing. A continuance may be granted for such period as is
 3 required in the interest of justice.

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5 **D. If it is shown, on motion of the child, that the child has been**
 6 **prejudiced in his defense on the merits by the defect of form, imperfection,**
 7 **omission, uncertainty, or variance, with respect to which an amendment is**
 8 **made, then the court shall grant a continuance for a reasonable time as is**
 9 **required in the interest of justice. In determining whether the child has been**
 10 **prejudiced in his defense upon the merits, the court shall consider all**
 11 **circumstances of the case and the entire course of the prosecution.**

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Alden A. Clement Jr.

SB 34 Original DIGEST 2020 Regular Session Connick

Present law provides that, with leave of court, the petitioner may amend a delinquency petition at any time to cure defects of form.

Proposed law removes the requirement for leave of court to amend a delinquency petition to cure defects of form, and adds that the delinquency petition may be amended without leave of court to also cure imperfections, omissions, uncertainties, and variances between the allegations of the petition and the evidence offered in support thereof. Proposed law otherwise retains present law.

Present law provides that, with leave of court and prior to the adjudication hearing, the petitioner may amend the delinquency petition to include new allegations of fact or requests for adjudication. Present law further provides that if such leave is granted, the child may request a continuance of the adjudication hearing, and a continuance may be granted for such period as is required in the interest of justice.

Proposed law removes the requirement for leave of court to amend a delinquency petition to include new allegations of fact or requests for adjudication. Proposed law adds that a continuance of the proceedings is to be granted to the child if the child has been prejudiced in his defense on the merits by any defect in the petition with respect to which an amendment is made, and such continuance is to be for a reasonable period of time. Proposed law further adds that in determining whether the child has been prejudiced in his defense upon the merits, the court is to consider all circumstances of the case and the entire course of the prosecution. Proposed law otherwise retains present law.

Effective August 1, 2020.

(Amends Ch.C. Art. 846(A) and (B); adds Ch.C. Art. 846(D))