

2016 Regular Session

SENATE BILL NO. 324

BY SENATOR MORRELL

JUVENILE JUSTICE. Creates the Raise the Age Louisiana Act of 2016 and the La. Juvenile Jurisdiction Planning and Implementation Council. (8/1/16)

1 AN ACT

2 To amend and reenact Children's Code Arts. 305(A)(2), 306(D), and 804(1) and to enact

3 R.S. 15:1441 through 1443, relative to juvenile jurisdiction; to provide for a child

4 who commits a delinquent act before a certain age; to provide for transfer of

5 juveniles to adult detention centers pending trial; to create the Juvenile Jurisdiction

6 Planning and Implementation Council and provide for its membership, authority,

7 duties, and responsibilities, including the power to issue subpoenas; to provide for

8 an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 13-B of Title 15 of the Louisiana Revised Statutes of 1950,

11 comprised of R.S. 15:1441 through 1443, is hereby enacted to read as follows:

12 **CHAPTER 13-B. JUVENILE JURISDICTION**

13 **PLANNING AND IMPLEMENTATION ACT**

14 **§1441. Short title**

15 **This Chapter shall be known and may be cited as the "Juvenile**

16 **Jurisdiction Planning and Implementation Act".**

17 **§1442. Legislative findings and declaration**

1 **A. The legislature hereby finds and declares the following:**

2 **(1) House Concurrent Resolution 73 of the 2015 Regular Session directed**
3 **the Institute for Public Health and Justice of Louisiana State University to study**
4 **the current state of the juvenile justice and criminal justice systems to**
5 **understand the potential impact of raising the age of juvenile jurisdiction to**
6 **include seventeen-year olds. The Institute for Public Health and Justice has**
7 **been designated by the state of Louisiana as an advisor to the legislature on**
8 **matters related to youth in the justice system.**

9 **(2) The Institute for Public Health and Justice, in its study, examined the**
10 **costs and benefits of including seventeen-year olds in the juvenile justice system.**
11 **The study concluded that Louisiana will likely experience significant cost**
12 **savings and public safety benefits as a result of including seventeen-year olds in**
13 **the juvenile justice system, and noted that Louisiana is one of only nine states**
14 **that prosecute every seventeen-year old as an adult.**

15 **(3) Youth should be held accountable when they commit serious offenses.**
16 **Nothing in the Raise the Age Louisiana Act of 2016 is intended to interfere, or**
17 **does interfere, with the discretion of district attorneys to prosecute serious**
18 **offenders who are ages fourteen, fifteen, sixteen, or seventeen as adults under**
19 **the provisions of Louisiana Children's Code Articles 305 and 857.**

20 **(4) The legislature recognizes, as the study reports, that the vast majority**
21 **of seventeen-year olds in Louisiana are arrested for offenses that involve neither**
22 **weapons nor violence. Research shows that Louisiana's neighborhoods will be**
23 **safer if those youth are held accountable in the juvenile justice system, because**
24 **prosecuting youthful offenders in the juvenile justice system is more likely to**
25 **reduce recidivism than adult prosecution.**

26 **(5) Studies conducted by the Centers for Disease Control in 2007 and the**
27 **United States Department of Justice in 2010 show that youth who are processed**
28 **in the adult criminal justice system are more likely to recidivate than similar**
29 **youth who remain in the juvenile justice system. Meanwhile, the Institute for**

1 Public Health and Justice's study found that recidivism rates for youth exiting
2 Louisiana's adult corrections system are twenty percent higher than recidivism
3 rates for similarly situated youth exiting the juvenile justice system.

4 (6) The legislature recognizes that the effect of reducing recidivism is to
5 generate significant savings to the state of Louisiana. The Institute for Public
6 Health and Justice's study finds that including seventeen-year olds in
7 Louisiana's juvenile justice system, while still allowing serious offenders to be
8 prosecuted as adults, is calculated to save Louisiana up to twenty million dollars
9 per year.

10 (7) The legislature recognizes that behavioral science has shown that
11 because of the biological properties of adolescent brains, when compared to
12 adults, seventeen-year olds are more prone to risky and impulsive behavior, less
13 able to engage in moral reasoning or regulate their emotions, less able to
14 consider long term consequences of their actions, and more prone to the effects
15 and stress of peer pressure. The legislature therefore recognizes the importance
16 of responding to offenses by seventeen-year olds with developmentally
17 appropriate strategies that are designed to promote accountability,
18 responsibility and safety. For the vast majority of seventeen-year olds, that
19 means using the juvenile justice system.

20 (8) The consequences of adult arrest and conviction records can stay with
21 youth through their lives, limiting their opportunities to access higher education
22 and well-paying jobs. The legislature finds that, unless public safety requires it,
23 Louisiana should avoid labeling seventeen-year olds as adult offenders, and
24 should adopt policies that encourage rehabilitation and productive development
25 of at-risk youth into successful adults who are contributing members of their
26 communities.

27 (9) The legislature recognizes that adult prisons and jails are not safe for
28 youth, and that imprisonment alongside adults exposes seventeen-year olds to
29 dramatically increased risk of physical and sexual violence, as well as mental

1 illness and trauma.

2 B. It is the express intent of the legislature that any savings realized
3 through the operation of this Chapter be reinvested in evidence-based services
4 that are designed to keep at-risk youth safely in their own homes and
5 communities. In particular, the legislature intends that any resulting savings be
6 invested through the Louisiana Juvenile Justice Reinvestment Program, as
7 detailed in R. S. 15:940 et seq.

8 §1443. Louisiana Juvenile Jurisdiction Planning and Implementation Council;
9 composition; authority; responsibilities

10 A. The Louisiana Juvenile Jurisdiction Planning and Implementation
11 Council, hereinafter referred to as the "council", is hereby created within the
12 office of the governor.

13 B. The council shall have the following authority, duties, and
14 responsibilities:

15 (1) Prior to January 1, 2017, the council shall develop, and submit to the
16 commissioner of administration, the president of the Senate, and the speaker of
17 the House of Representatives, a plan for full implementation of the provisions
18 of this Chapter. The plan shall include recommendations for changes required
19 in the juvenile justice system to expand jurisdiction to include persons seventeen
20 years of age. These recommendations may include the following items:

21 (a) The development of programs and policies that can safely reduce the
22 number of youth at each stage in the juvenile justice system, including expanded
23 use of diversion where appropriate; development and use of civil citation
24 programs; use of evidence-based and promising services wherever possible; and
25 reinvestment programs targeting the expanded use of community-based
26 alternatives to secure, nonsecure, and pre-disposition custody.

27 (b) The development of comprehensive projections to determine the
28 long-term distribution of placement capacity for youth in the juvenile justice
29 system.

1 (c) An analysis of the impact of the expansion of juvenile jurisdiction to
2 persons seventeen years of age on state agencies and a determination of which
3 state agencies shall be responsible for providing relevant services to juveniles,
4 including but not limited to mental health and substance abuse services,
5 housing, education, and employment.

6 (2) Not later than April 1, 2017, and quarterly thereafter, the council
7 shall submit a written status report to the commissioner of administration, the
8 president of the Senate, and the speaker of the House of Representatives, on
9 implementation of the plan as provided in Paragraph (1) of this Subsection.

10 (3) The council is authorized to use the personnel, facilities, and services
11 of the legislature, executive departments and agencies, and the courts and
12 judicial administrator. The council may request of and utilize such counsel,
13 research, assistance, personnel, facilities, and advice as may be obtained from
14 any and all public sources and from any and all private sources, including but
15 not restricted to private research agencies, consulting groups, individuals, and
16 organizations.

17 (4) The council may call upon the members or staffs of any and all
18 existing departments or agencies of the state for data or assistance, or both, and
19 all such agencies and departments shall cooperate with the council.

20 (5) The council shall have the power and authority to hold hearings,
21 subpoena witnesses, administer oaths, require the production of books and
22 records, and do all other things necessary to discharge its duties and
23 responsibilities. However, a subpoena or a subpoena duces tecum shall be issued
24 only upon the approval of a majority of the members of the council. Subpoenas
25 shall be served by the sheriff or by any other officer authorized by law to serve
26 process in this state.

27 C. The council shall be composed of the following members:

28 (1) Two members of the legislature, one of whom shall be appointed by
29 the speaker of the House of Representatives, and one of whom shall be

1 appointed by the president of the Senate.

2 (2) The chairperson of the Juvenile Justice Reform Act Implementation
3 Commission.

4 (3) The chief justice of the Louisiana Supreme Court, or her designee.

5 (4) Two sitting Louisiana judges, one of whom shall be appointed by the
6 president of the Louisiana District Judges' Association, and one of whom shall
7 be appointed by the president of the Louisiana Council of Juvenile and Family
8 Court Judges.

9 (5) The deputy secretary of the office of juvenile justice, or her designee.

10 (6) The superintendent of the state Department of Education, or his
11 designee.

12 (7) The chairman of the Louisiana Public Defender Board, or his
13 designee.

14 (8) The president of the Board of Directors of the Louisiana District
15 Attorneys' Association, or his designee.

16 (9) The executive director of the Louisiana Sheriffs' Association, or his
17 designee.

18 (10) The president of the Louisiana Juvenile Detention Association, or
19 that person's designee.

20 (11) The director of the Institute for Public Health and Justice, or his
21 designee.

22 (12) Two child or youth advocates, one of whom shall be appointed by
23 the speaker pro tempore of the House of Representatives, and one of whom shall
24 be appointed by the president pro tempore of the Senate.

25 (13) Two parents, each of whom is the parent of a child who has been
26 involved with the juvenile justice system, one of whom shall be designated by
27 the executive director of the Cecil J. Picard Center for Child Development and
28 Lifelong Learning, and one of whom shall be designated by the executive
29 director of the Children's Coalition for Northeast Louisiana.

1 appropriate court exercising criminal jurisdiction for all subsequent procedures,
 2 including the review of bail applications, and the ~~child shall be transferred forthwith~~
 3 ~~to the appropriate adult facility for detention prior to his trial as an adult~~ **court**
 4 **exercising criminal jurisdiction may order that the child be transferred to the**
 5 **appropriate adult facility for detention prior to his trial as an adult.**

6 * * *

7 Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

8 * * *

9 D. If at the conclusion of the continued custody hearing, the court determines
 10 that the child meets the age requirements and that there is probable cause that the
 11 child has committed one of the offenses enumerated in Article 305, the court shall
 12 order him held for trial as an adult for the appropriate court of criminal jurisdiction.
 13 The ~~child~~ **appropriate court of criminal jurisdiction** shall ~~may~~ thereafter **order**
 14 **that the child** be held in any facility used for the pretrial detention of accused adults
 15 and **the child** shall apply to the appropriate court of criminal jurisdiction for a
 16 preliminary hearing, bail, and for any other rights to which he may be entitled under
 17 the Code of Criminal Procedure.

18 * * *

19 Section 3. Children's Code Art. 804(1) is hereby amended and reenacted to read as
 20 follows:

21 Art. 804. Definitions

22 As used in this Title:

23 (1) "Child" means any person under the age of twenty-one, including an
 24 emancipated minor, who commits a delinquent act before attaining ~~seventeen~~
 25 **eighteen** years of age.

26 Section 4.(A) The Louisiana State Law Institute is hereby directed to study, and to
 27 recommend to the Legislature in a written report, such other amendments and additions to
 28 the Louisiana Children's Code, Louisiana Code of Criminal Procedure, and the Louisiana
 29 Revised Statutes as may be appropriate to effectuate the purpose of this Act to include

1 seventeen-year-olds in the juvenile justice system. The Louisiana State Law Institute shall
 2 make its report, and shall recommend such legislation as it may deem appropriate, to the
 3 Legislature by March 1, 2017.

4 (B) The Louisiana Judicial Council is hereby requested to study, and to recommend
 5 to the Louisiana Supreme Court, such amendments and additions to Louisiana's Rules of
 6 Court as may be appropriate to effectuate the purpose of this Act to include seventeen-year
 7 olds in the juvenile justice system.

8 (C) The Department of Children and Family Services is hereby directed to study, and
 9 to recommend for promulgation into law through the Administrative Procedures Act, such
 10 new or amended regulations for the safe operation of the state's juvenile detention centers
 11 as may be appropriate given the inclusion of seventeen-year olds in the juvenile justice
 12 system.

13 Section 5.(A) Except as provided in Subsections B and C of this Section, this Act
 14 shall become effective upon signature by the governor or, if not signed by the governor,
 15 upon expiration of the time for bills to become law without signature by the governor, as
 16 provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the
 17 governor and subsequently approved by the legislature, this Act shall become effective on
 18 the day following such approval.

19 (B) The provisions of Section 3 of this Act shall become effective on July 1, 2017
 20 and shall be applied prospectively to any person who is alleged to have committed a
 21 delinquent or criminal act on or after July 1, 2017 and shall apply retroactively to any person
 22 who is alleged to have committed a delinquent or criminal act before July 1, 2017.

23 Section 6. This Act shall be known as the "Raise the Age Louisiana Act of 2016".

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB Original 2016 Regular Session Morrell

Present law provides that a child age 15 or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnaping, is subject to the exclusive jurisdiction of the juvenile court until either:

- (a) An indictment charging one of these offenses is returned.

- (b) The juvenile court holds a continued custody hearing and finds probable cause that he committed one of these offenses, whichever occurs first. Provides that during the hearing, when the child is charged with aggravated or first degree rape, the court is to inform him that if convicted he will be required to register as a sex offender for life.

Present law provides that thereafter, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and requires that the child be transferred forthwith to the appropriate adult facility for detention prior to his trial as an adult.

Proposed law retains these provisions but as to the transfer to an adult facility, the court is given discretion as to whether to transfer the child to an adult facility for detention prior to his trial as an adult.

Present law defines a child, for purposes of delinquency, to be any person under the age of 21, including an emancipated minor, who commits a delinquent act before attaining the age of 17. Proposed law changes the age from 17 to 18.

Proposed law creates the Louisiana Juvenile Jurisdiction Planning and Implementation Council, within the office of the governor and that it perform the following activities:

- (1) Prior to January 1, 2017, develop, and submit to the commissioner of administration, the president of the Senate, and the speaker of the House of Representatives, a plan for full implementation of the provisions of proposed law.
- (2) Requires that the plan include recommendations for changes required in the juvenile justice system to expand jurisdiction to include persons 17 years of age, which recommendations may include:
 - (a) Development of programs and policies that can safely reduce the number of youth at each stage in the juvenile justice system, including expanded use of diversion where appropriate; development and use of civil citation programs; use of evidence-based and promising services wherever possible; and reinvestment programs targeting the expanded use of community-based alternatives to secure, nonsecure, and pre-disposition custody.
 - (b) Development of comprehensive projections to determine the long-term distribution of placement capacity for youth in the juvenile justice system.
 - (c) Analysis of the impact of the expansion of juvenile jurisdiction to persons seventeen years of age on state agencies and a determination of which state agencies shall be responsible for providing relevant services to juveniles, including but not limited to mental health and substance abuse services, housing, education and employment.

Requires that the council, no later than April 1, 2017, and quarterly thereafter, submit a written status report to the commissioner of administration, the president of the Senate, and the speaker of the House of Representatives, on implementation of its plan.

Authorizes the council to use the personnel, facilities, and services of the legislature, executive departments and agencies, and the courts and judicial administrator and to request of and utilize such counsel, research, assistance, personnel, facilities, and advice as may be obtained from any and all public sources and from any and all private sources, including but not restricted to private research agencies, consulting groups, individuals, and organizations.

Authorizes the council to call upon the members or staffs of any and all existing departments or agencies of the state for data or assistance, or both.

Authorizes the council to have the power and authority to hold hearings, subpoena witnesses, administer oaths, require the production of books and records, and do all other things necessary to discharge its duties and responsibilities. Requires that any subpoena or subpoena duces tecum be issued only upon the approval of a majority of the members of the council.

Proposed law provides for the council membership, appointment of vacancies, and requires that members serve without compensation. Requires that the council public meetings as it deems necessary.

Proposed law provides that the council terminate on December 31, 2018.

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

(Amends Ch. C. Arts. 305(A)(2), 306(D), and 804(1); adds R.S. 15:1441 through 1443)