HLS 19RS-372 ENGROSSED

2019 Regular Session

HOUSE BILL NO. 11

1

BY REPRESENTATIVE BACALA

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

JUVENILE PROCEDURE: Provides relative to the taking into custody of a seventeen-year-old who commits a misdemeanor-grade delinquent act

AN ACT

2	To amend and reenact Children's Code Articles 814(B)(1) and 815(A) and to enact
3	Children's Code Article 814(B)(3), relative to taking a child into custody; to
4	authorize the release of a seventeen-year-old taken into custody for the commission
5	of a misdemeanor-grade delinquent act upon the issuance of a summons or upon his
6	written promise to appear; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Children's Code Articles 814(B)(1) and 815(A) are hereby amended and
9	reenacted and Children's Code Article 814(B)(3) is hereby enacted to read as follows:
10	Art. 814. Taking child into custody without a court order; duties of the officer;
11	duties of the court
12	* * *
13	B. If a child is taken into custody without a court order or warrant, the officer
14	shall have the responsibility to either: do any of the following:
15	(1) Counsel and release the child to the care of his parents upon their written
16	promise to bring the child to court at such time as may be fixed upon notice issued
17	by the court.
18	* * *
19	(3) If the child is seventeen years of age or older and has been taken into
20	custody for the commission of a misdemeanor-grade delinquent act, issue a summons

Page 1 of 3

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1 or counsel and release the child upon the child's written promise to appear in court 2 upon notice issued by the court. 3 4 Art. 815. Child taken into custody; place of detention 5 A. The peace officer or an appropriate representative of the arresting agency shall have the authority and responsibility to transport the child to the appropriate 6 place of detention specified in Paragraphs B and C of this Article, unless the child 7 8 has been released to the care of his parents pursuant to Article 814(B)(1) or (3). 9

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)]

HB 11 Engrossed

2019 Regular Session

Bacala

Abstract: Authorizes the release of a child who is 17 years of age or older taken into custody for the commission of a misdemeanor-grade delinquent act upon the issuance of a summons or upon his written promise to appear.

<u>Present law</u> (Ch.C. Art. 814) provides that a child may be taken into custody without a court order or warrant by a peace officer or probation officer if the officer has probable cause to believe that the child has committed a delinquent act.

If a child is taken into custody without a court order or warrant, <u>present law</u> (Ch.C. Art. 814) provides that the officer shall have the responsibility to either:

- (1) Counsel and release the child to the care of his parents upon their written promise to bring the child to court at such time as may be fixed by the court.
- (2) Promptly escort the child to the appropriate facility in accordance with <u>present law</u> (Ch.C. Art. 815).

In this regard, <u>present law</u> (Ch.C. Art. 815) requires the peace officer or an appropriate representative of the arresting agency to transport the child to the appropriate place of detention specified in <u>present law</u>, unless the child has been released to the care of his parents pursuant Paragraph (1) above.

<u>Present law</u> (Ch.C. Art. 804) provides that a 17-year-old who commits, on or after March 1, 2019, a delinquent act that is not a crime of violence may be subject to delinquency proceedings of the appropriate court exercising juvenile court jurisdiction instead of being subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction.

<u>Proposed law</u> provides that if a child who is 17 years of age or older is taken into custody without a court order or warrant for a misdemeanor-grade delinquent act, the peace officer has the additional option of releasing the child upon the issuance of a summons or upon the child's written promise to appear in court upon notice issued by the court.

Page 2 of 3

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> further amends <u>present law</u> to provide that the written promise of the child to appear in court and the written promise of a parent to bring the child to court shall be upon notice issued by the court.

(Amends Ch.C. Art. 814(B)(1) and 815(A); Adds Ch.C. Art. 814(B)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Administration of Criminal Justice</u> to the <u>original</u> bill:

- 1. Amend <u>present law</u> and <u>proposed law</u> to provide that the written promise of the child to appear in court and the written promise of a parent to bring the child to court shall be upon notice issued by the court.
- 2. Provide that the authority of a peace officer to release the child upon the issuance of a summons or upon the child's written promise to appear in court applies when the person taken into custody is 17 years of age or older.