

SENATE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Senator Luneau to Engrossed Senate Bill No. 418 by Senator Cathey

1 AMENDMENT NO. 1

2 On Page 1, line 2, after "Children's Code Art." delete the remainder of the line and insert
3 "305(A)(2), 306(D), 804(1), 821(E), and 857(A), relative to juvenile court jurisdiction; to"

4 AMENDMENT NO. 2

5 On page 1, line 3, after "proceedings;" insert "to provide relative to juvenile detention for
6 certain offenses; to provide factors for continued custody hearings; to provide relative to
7 transfers for criminal prosecution;"

8 AMENDMENT NO. 3

9 On page 1, line 6, after "Children's Code Art." delete the remainder of the line and insert
10 "305(A)(2), 306(D), 804(1), 821(E), and 857(A) are hereby amended and reenacted to read
11 as"

12 AMENDMENT NO. 4

13 On page 1, between lines 7 and 8, insert the following:

14
15 "Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
16 jurisdiction over children

17 A.(1) * * *
18 (2) Thereafter, the child is subject to the exclusive jurisdiction of the
19 appropriate court exercising criminal jurisdiction for all subsequent procedures,
20 including the review of bail applications, and the court exercising criminal
21 jurisdiction may order that the child be transferred to the appropriate adult facility
22 for detention prior to his trial as an adult **if the child has not been transferred**
23 **pursuant to Article 306(D)(1).**

24 * * *
25 Art. 306. Places of detention; juveniles subject to criminal court jurisdiction
26 * * *

27 D.**(1)(a)** If at the conclusion of the continued custody hearing, the court
28 determines that the child meets the age requirements and that there is probable cause
29 that the child has committed one of the offenses enumerated in Article 305, the court
30 shall order him held for trial as an adult for the appropriate court of criminal
31 jurisdiction.

32 **(b) If the child is seventeen years of age at the time of the commission of**
33 **an offense enumerated in Article 305(A)(1), for which the court has found**
34 **probable cause and the court finds it is in the interest of justice pursuant to**
35 **Article 821(E)(2), the court shall order the child transferred to the appropriate**
36 **adult facility for detention prior to his trial as an adult.**

37 **(c) If the child is seventeen years of age at the time of the commission of**
38 **an offense enumerated in Article 305(B)(2) that is also a crime of violence as**
39 **defined in R.S. 14:2(B), for which the court has found probable cause.**

40 **(2) If the child is not ordered transferred to an appropriate adult facility**
41 **for detention at the conclusion of the continued custody hearing, the** ~~The~~
42 appropriate court of criminal jurisdiction may thereafter order that the child be held
43 in any facility used for the pretrial detention of accused adults and the child shall
44 apply to the appropriate court of criminal jurisdiction for a preliminary hearing, bail,
45 and for any other rights to which he may be entitled under the Code of Criminal
46 Procedure.

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AMENDMENT NO. 5

On page 2, after line 7, insert the following:

"Art. 821. Continued custody hearing

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E.~~(1)~~ If probable cause has been demonstrated, the court may release the child. The court may also require bail or other security pursuant to Articles 823 through 825 if the court finds that such is necessary to secure the child's appearance for subsequent hearings.

(2) If probable cause has been demonstrated for any offense enumerated in Article 305(A)(1), the court shall determine whether it is in the interest of justice for the child to be transferred to the appropriate adult facility for detention prior to his trial as an adult. In making this determination, the court shall consider the following:

- (a) The age of the child.**
- (b) The physical and mental maturity of the child.**
- (c) The present mental state of the child, including whether the child presents an imminent risk of harm to himself.**
- (d) The nature and circumstances of the alleged offense.**
- (e) The child's history of prior delinquent acts.**
- (f) The ability of the available adult and juvenile detention facilities to meet the specific needs of the child and to protect the safety of the public and other detained children.**
- (g) Any relevant factors the court deems appropriate.**

* * *

Art. 857. Transfers for criminal prosecution; authority

A. The court on its own motion or on motion of the district attorney may conduct a hearing to consider whether to transfer a child for prosecution to the appropriate court exercising criminal jurisdiction if a delinquency petition has been filed which alleges ~~that~~ **either of the following:**

~~(1) A~~ **(1) A** that child who is fourteen years of age or older at the time of the commission of the alleged offense but is not otherwise subject to the original jurisdiction of a court exercising criminal jurisdiction has committed any one or more of the following crimes:

- ~~(1a)~~ **(1a)** First degree murder.
- ~~(2b)~~ **(2b)** Second degree murder.
- ~~(3c)~~ **(3c)** Aggravated kidnapping.
- ~~(4d)~~ **(4d)** Aggravated or first degree rape.
- ~~(5e)~~ **(5e)** Aggravated battery when committed by the discharge of a firearm.
- ~~(6f)~~ **(6f)** Armed robbery when committed with a firearm.
- ~~(7) Repealed by Acts 2001, No. 301, §2.~~
- ~~(8g)~~ **(8g)** Forcible or second degree rape if the rape is committed upon a child at least two years younger than the rapist.

(2) A child who is seventeen years of age at the time of the commission of the alleged offense but is not otherwise subject to the original jurisdiction of a court exercising criminal jurisdiction has committed either of the following:

- (a) Simple burglary when committed with a firearm, or becomes armed with or possesses a firearm after entering.**
- (b) Carjacking.**

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