

2023 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVE HILFERTY

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

JUVENILES: Provides relative to rights of victims of alleged delinquent acts

1 AN ACT

2 To amend and reenact Children's Code Articles 811.1(A)(5), (10), and (F), 811.3, and
3 879(B)(2), to enact Children's Code Article 879(D) and (E), and to repeal Children's
4 Code Article 811.1(G), relative to juvenile crime victims; to provide with respect to
5 the rights of victims; to provide relative to definitions; to amend provisions relative
6 to the confidentiality of delinquency proceedings; to provide relative to the exclusion
7 of witnesses; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 811.1(A)(5), (10), and (F), 811.3, and 879(B)(2)
10 are hereby amended and reenacted and Children's Code Articles 879(D) and (E) are hereby
11 enacted to read as follows:

12 Art. 811.1. Rights of the victim of alleged delinquent act

13 A. The juvenile court, district attorneys, and law enforcement agencies shall
14 provide the following services to victims of alleged delinquent acts, providing the
15 victim reported the act to law enforcement authorities within seventy-two hours of
16 its occurrence or discovery, unless extenuating circumstances exist for later
17 reporting:

18 * * *

19 (5) The court should provide, whenever possible, a secure waiting area
20 during court proceedings that does not require victims and their legal representatives

1 to be in close proximity to accused children and their families and friends. The
 2 juvenile court shall provide a secure waiting area in cases involving violent crime.
 3 The victim, or the designated member of the victim's family in a case involving
 4 homicide or injury to a minor, shall have the right to be present at all court
 5 proceedings and, whenever practical, be allowed to observe the proceedings by
 6 simultaneous transmission through audiovisual equipment, if such technology is
 7 available in the courtroom.

8 * * *

9 (10) ~~If requested,~~ The district attorney shall, whenever practical, consult the
 10 ~~victim of a violent felony-grade offense and~~ or the designated member of the victim's
 11 family in the case of homicide or injury to a minor ~~shall be consulted by the~~
 12 ~~prosecutor~~ in order to obtain their view regarding:

13 * * *

14 F. ~~Any information about the status of the case in juvenile court which is~~
 15 ~~received by the victim or his legal representative shall remain subject to the~~
 16 ~~confidentiality restrictions of Article 412 and shall not be further disclosed by him.~~

17 ~~G:~~(1) In order to protect the identity and provide for the safety and welfare
 18 of juvenile crime victims under the age of ~~seventeen~~ eighteen years, all public
 19 officials and officers and public agencies, including but not limited to all law
 20 enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court,
 21 and the Department of Children and Family Services or any division thereof, shall
 22 not publicly disclose the name, address, or identity of a juvenile victim of crime who
 23 at the time of the commission of the offense is under ~~seventeen~~ eighteen years of age.
 24 The public disclosure of the name of the juvenile crime victim by any public official
 25 or officer or public agency is not prohibited by this Subparagraph when the crime
 26 resulted in the death of the victim.

27 (2) Notwithstanding any other provision of law to the contrary, all public
 28 officials, officers, and public agencies, including but not limited to all law
 29 enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court,

1 and the Department of Children and Family Services or any division thereof, charged
 2 with the responsibility of knowing the name, address and identity of juvenile crime
 3 victims as a necessary part of their duties shall have full and complete access to this
 4 information regarding a juvenile crime victim and they may lawfully utilize initials,
 5 abbreviations, or other forms of indefinite descriptions on all public documents used
 6 in the performance of their duties to whatever extent they deem necessary, to prevent
 7 the public disclosure of the name, address, or identity of a juvenile victim of crime
 8 under the age of ~~seventeen~~ eighteen years.

9 * * *

10 Art. 811.3. Definitions

11 In this Chapter:

12 (1) "Juvenile crime victim" means a person, under the age of ~~seventeen~~
 13 eighteen, against whom ~~an offense against the person that is a felony~~ a delinquent act
 14 has been committed.

15 (2) "Victim" means a person against whom an offense that is a ~~felony-grade~~
 16 delinquent act has been committed.

17 (3) "Victim's family" means ~~a spouse, parent, child, stepchild, sibling, the~~
 18 spouse, child, stepchild, sibling, parent, grandparent, guardian, legal custodian, or
 19 legal representative of the victim, except when the person is in custody for an offense
 20 or is the defendant.

21 * * *

22 Art. 879. Presence at adjudication hearing; exclusion of witnesses

23 * * *

24 B.

25 * * *

26 (2) ~~Except as otherwise provided by law, in all juvenile delinquency~~
 27 ~~proceedings involving the violation of first degree murder (R.S. 14:30), second~~
 28 ~~degree murder (R.S. 14:30.1), aggravated or first degree rape (R.S. 14:42),~~
 29 ~~aggravated kidnapping (R.S. 14:44), armed robbery (R.S. 14:64), negligent homicide~~

friends. Provides that the juvenile court shall provide a secure waiting area in cases involving violent crime.

Proposed law amends present law to add that the victim or the designated member of the victim's family in a case involving homicide or injury to a minor has the right to be present at all court proceedings and, whenever practical, shall be allowed to observe the proceedings by simultaneous transmission through audiovisual equipment, if such technology is available in the courtroom.

Present law (Ch.C. Art. 811.1(A)(10)) provides for consultation between the prosecutor and the victim of a violent felony-grade offense as well as the designated member of the victim's family for the purpose of obtaining their view on both the disposition as well the use of available disposition alternatives for a case that involves homicide or injury to a minor.

Proposed law amends present law to remove the designation that the victim be a victim of a felony-grade offense and provides that the district attorney, whenever practical, shall consult either the victim or a designated member of the victim's family in a case that involves homicide or injury to a minor.

Present law (Ch.C. Art. 811.1(F)) provides that any information about the status of the case in juvenile court which is received by the victim or his legal representative shall remain subject to the confidentiality restrictions of present law (Ch.C. Art. 412) and shall not be further disclosed by him.

Proposed law changes present law to prohibit public officials, officers, and agencies from disclosing the name, address, or identity of a juvenile victim of crime who at the time of the commission of the offense is under 17 years of age. Further amends present law to raise the age threshold of the juvenile victim from 17 to 18 years of age.

Present law (Ch.C. Art. 811.3(1)) defines the term "juvenile crime victim" as a person, under the age of 17, against whom an offense against the person that is a felony has been committed.

Proposed law amends the present law definition of "juvenile crime victim" to change the age threshold to under the age of 18 and to change the type of offense from an offense against the person that is a felony to a delinquent act.

Present law (Ch.C. Art. 811.3(2)) defines the term "victim" as a person against whom an offense that is a felony-grade delinquent act has been committed.

Proposed law amends the present law definition of "victim" to remove the felony-grade designation.

Present law (Ch.C. Art. 811.3(3)) defines the term "victim's family" as a spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when the person is in custody for an offense or is the defendant.

Proposed law amends the definition of "victim's family" to include the victim's grandparent, guardian, or legal custodian.

Present law (Ch.C. Art. 879) provides for both the presence and exclusion of witnesses at an adjudication hearing.

Proposed law retains present law.

Present law (Ch.C. Art. 879(B)(2)) provides that the court shall allow the victim, the victim's spouse, children, siblings, parents, grandparents, guardians, and legal custodians to be present at the adjudication hearing in all juvenile delinquency proceedings involving the

violation of first degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated or first degree rape (R.S. 14:42), aggravated kidnapping (R.S. 14:44), armed robbery (R.S. 14:64), negligent homicide (R.S. 14:32), or vehicular homicide (R.S. 14:32.1).

Proposed law amends present law to provide that any information regarding proceedings subject to present law, including identifying information, shall not be prohibited from disclosure to the public, notwithstanding any other provision of present law to the contrary, including but not limited to Ch.C. Art. 412.

Proposed law provides that proposed law does not authorize exclusion of any of the following witnesses:

- (1) A party who is a natural person.
- (2) A single officer or single employee of a party which is not a natural person designated as its representative or case agent by its attorney.
- (3) A person whose presence is shown by a party to be essential to the presentation of his cause such as an expert.
- (4) The victim of the offense or the family of the victim.

Proposed law provides that a court may impose appropriate sanctions for violations of its exclusion order including contempt, or when such sanctions are insufficient, disqualification of the witness.

(Amends Ch.C. Arts. 811.1(A)(5), (10), and (F), 811.3, and 879(B)(2); Adds Ch.C. Art. 879(D) and (E); Repeals Ch.C. Art. 811.1(G))

Summary of Amendments Adopted by House

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

1. Restructure language pertaining to the rights of the victim or the designated member of the victim's family in a case involving homicide or injury of a minor.