

2019 Regular Session

HOUSE BILL NO. 241

BY REPRESENTATIVES MIKE JOHNSON AND MARINO

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

JUVENILES: Provides relative to certain crimes and delinquency provisions when the offender is under the age of eighteen

1 AN ACT

2 To amend and reenact R.S. 14:40.7(D)(2), 73.10(C)(2), 92.3(A), and 95.8(A) and  
3 (C)(introductory paragraph) and R.S. 15:902.1, 1031, 1096.2(A), 1098.3, and 1099.3,  
4 relative to juveniles; to provide relative to juvenile court jurisdiction; to provide  
5 relative to the application of delinquency provisions to seventeen-year-olds; to  
6 provide relative to the application of certain non-violent crimes based upon the age  
7 of the offender; to provide relative to the transfer of juveniles who are adjudicated  
8 delinquent to adult facilities; to provide relative to the establishment of schools for  
9 juveniles who are adjudicated delinquent; to provide relative to rehabilitative  
10 programs for juveniles preadjudication; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 14:40.7(D)(2), 73.10(C)(2), 92.3(A), and 95.8(A) and  
13 (C)(introductory paragraph) are hereby amended and reenacted to read as follows:

14 §40.7. Cyberbullying

15 \* \* \*

16 D.

17 \* \* \*

18 (2) When the offender is under the age of ~~seventeen~~ eighteen, the disposition  
19 of the matter shall be governed exclusively by the provisions of Title VII of the  
20 Children's Code.

21 \* \* \*

1 §73.10. Online impersonation

2 \* \* \*

3 C.

4 \* \* \*

5 (2) When the offender is under the age of ~~seventeen~~ eighteen years, the  
6 disposition of the matter shall be governed exclusively by the provisions of Title VII  
7 of the Children's Code.

8 \* \* \*

9 §92.3. Retaliation by a minor against a parent, legal custodian, witness, or  
10 complainant

11 A. Retaliation by a minor against a parent, legal custodian, witness, or  
12 complainant is the willful, malicious, and repeated threats of force against or  
13 harassment of a person or his property by a minor under the age of ~~seventeen~~  
14 eighteen accompanied by an overt act on the part of the minor or by the apparent  
15 capability of the minor to carry out the threat or harassment, against a parent, legal  
16 custodian, person who filed a complaint against the minor, or a witness in a criminal  
17 case in which the minor is the defendant or charged with a delinquency and the  
18 minor intends to place that person in a reasonable fear of death, serious bodily injury,  
19 or damage to property.

20 \* \* \*

21 §95.8. Illegal possession of a handgun by a juvenile

22 A. It is unlawful for any person who has not attained the age of ~~seventeen~~  
23 eighteen years knowingly to possess any handgun on his person. Any person  
24 possessing any handgun in violation of this Section commits the offense of illegal  
25 possession of a handgun by a juvenile.

26 \* \* \*

27 C. The provisions of this Section shall not apply to any person under the age  
28 of ~~seventeen~~ eighteen years who is:

29 \* \* \*

1 Section 2. R.S. 15:902.1, 1031, 1096.2(A), 1098.3, and 1099.3 are hereby amended  
2 and reenacted to read as follows:

3 §902.1. Transfer of adjudicated juvenile delinquents

4 Notwithstanding Title VIII of the Louisiana Children's Code or any other  
5 provision of law, the secretary of the department may promulgate rules and  
6 regulations to authorize the transfer of adjudicated juvenile delinquents to adult  
7 correctional facilities when the delinquents have attained the age of ~~seventeen~~  
8 eighteen years, the age of full criminal responsibility.

9 \* \* \*

10 §1031. Establishment of parish schools for youths authorized

11 The governing authorities of the parishes may establish, within their parishes,  
12 an industrial school for male youths of the age ~~seventeen~~ eighteen years, and under,  
13 convicted in the juvenile court of the parish for offenses within the jurisdiction of the  
14 juvenile court. Where any school has been so established, it shall be employed only  
15 for the delinquent juveniles convicted within the parish, and shall be known as the  
16 "Parish Industrial School for Youths."

17 \* \* \*

18 §1096.2. Purpose

19 A. The purpose of the commission shall be to assist and afford opportunities  
20 to preadjudicatory and postadjudicatory children who enter the juvenile justice  
21 system, or who are children in need of care or supervision, to become productive,  
22 law-abiding citizens of the community, parish, and state by the establishment of  
23 rehabilitative programs within a structured environment and to provide physical  
24 facilities and related services for children, including the housing, care, supervision,  
25 maintenance, and education of juveniles under the age of ~~seventeen~~ eighteen years,  
26 and for juveniles ~~seventeen~~ eighteen years of age and over who were under  
27 ~~seventeen~~ eighteen years of age when they committed an alleged offense, throughout  
28 the parishes within the district and other participating parishes.

29 \* \* \*

1 §1098.3. Purpose

2 The commission may assist and afford opportunities to preadjudicatory and  
3 postadjudicatory children who enter the juvenile justice system to become  
4 productive, law-abiding citizens of the community, parish, and state by the  
5 establishment of rehabilitative programs within a structured environment and provide  
6 physical facilities and related services for children, including the housing, care,  
7 supervision, maintenance, and education of juveniles under the age of ~~seventeen~~  
8 eighteen years, and for juveniles ~~seventeen~~ eighteen years of age and over who were  
9 under ~~seventeen~~ eighteen years of age when they committed an alleged offense,  
10 throughout St. James Parish and participating parishes.

11 \* \* \*

12 §1099.3. Purpose

13 A governing authority may assist and afford opportunities to preadjudicatory  
14 and postadjudicatory children who enter the juvenile justice system to become  
15 productive, law-abiding citizens of the community, parish, and state by the  
16 establishment of rehabilitative programs within a structured environment and provide  
17 physical facilities and related services for children, including the housing, care,  
18 supervision, maintenance, and education of juveniles under the age of ~~seventeen~~  
19 eighteen years, and for juveniles ~~seventeen~~ eighteen years of age and over who were  
20 under ~~seventeen~~ eighteen years of age when they committed an alleged offense,  
21 throughout the parish and participating parishes.

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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)]

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HB 241 Original                                      2019 Regular Session                                      Mike Johnson

**Abstract:** Provides relative to the expanded application of delinquency provisions to seventeen-year-olds.

Prior to March 1, 2019, delinquency provisions applied only to persons under the age of 17. Present law (Act No. 654 of the 2018 R.S.) provides that beginning March 1, 2019, criminal acts that are not crimes of violence committed by 17-year-olds shall be governed by the provisions in the Children's Code regarding delinquency.

Present law provides for the following regarding persons subject to delinquency provisions in the Children's Code:

- (1) Authorizes the transfer of adjudicated juvenile delinquents to adult facilities at the age of 17.
- (2) Provides for the establishment of parish schools for male youths who are adjudicated delinquent.
- (3) Provides preadjudicatory and postadjudicatory opportunities for juveniles adjudicated delinquent.

The present law crimes of cyberbullying, online impersonation, and retaliation by a minor against a parent, legal custodian, witness, or complainant provide that the offense can only be committed by persons under the age of 17.

The present law crime of illegal possession of a handgun by a juvenile provides that the offense can only be committed by persons 17 years of age or older.

Proposed law amends these present law provisions to conform with the changes made by Act No. 254 of 2018 R.S. by changing references of persons over or under the age of 17 to persons over or under the age of 18.

(Amends R.S. 14:40.7(D)(2), 73.10(C)(2), 92.3(A), 95.8(A) and (C)(intro. para.) and R.S. 15:902.1, 1031, 1096.2(A), 1098.3, and 1099.3)