

2019 Regular Session

HOUSE BILL NO. 47

BY REPRESENTATIVE JENKINS

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

CRIMINAL/PENALTIES: Provides relative to the crime of improper supervision of a minor by a parent or legal custodian

1 AN ACT

2 To amend and reenact R.S. 14:92.2(A)(1) and (2), (B)(1), (C), and (D), to enact Code of
3 Criminal Procedure Article 211.3, and to repeal R.S. 14:92.2(B)(4), relative to
4 improper supervision of a minor; to amend the penalties for the crime of improper
5 supervision of a minor by a parent or legal custodian; to provide relative to
6 sentencing; to require issuance of a summons in lieu of arrest of persons who commit
7 the offense; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:92.2(A)(1) and (2), (B)(1), (C), and (D) are hereby amended and
10 reenacted to read as follows:

11 §92.2. Improper supervision of a minor by parent or legal custodian; ~~penalty~~

12 A. Improper supervision of a minor by a parent or legal custodian, who has
13 care and control of the minor, includes any of the following:

14 (1) Through criminal negligence, the permitting of the minor to associate
15 with a person known by the parent or custodian to be any of the following:

16 (a) ~~To be a~~ A member of a known criminal street gang as defined in R.S.
17 15:1404(A).

18 (b) ~~To have been convicted~~ Convicted of a felony offense.

19 (c) ~~To be a known~~ A user or distributor of drugs in violation of the Uniform
20 Controlled Dangerous Substances Law.

1 (d) ~~To be a~~ A person who possesses or has access to an illegal firearm,
2 weapon, or explosive.

3 (2) Through criminal negligence, the permitting of the minor to do any of the
4 following:

5 (a) ~~To enter~~ Enter premises known by the parent or custodian to be a place
6 where sexually indecent activities or prostitution is practiced.

7 (b) ~~To violate~~ Violate a local or municipal curfew ordinance.

8 (c) ~~To habitually~~ Habitually be absent or tardy from school pursuant to the
9 provisions of R.S. 17:233 without valid excuse.

10 (d) ~~To enter~~ Enter the premises known by the parent or legal custodian as a
11 place of illegal drug use or distribution activity.

12 (e) ~~To enter~~ Enter the premises known by the parent or legal custodian as a
13 place of underage drinking or gambling.

14 (f) ~~To enter~~ Enter the premises known by the parent or legal custodian as a
15 place which stores or has a person present who possesses an illegal firearm, weapon,
16 or explosive.

17 * * *

18 B.(1) Whoever violates the provisions of this Section shall be fined ~~not less~~
19 ~~than twenty-five dollars and~~ not more than ~~two~~ five hundred ~~fifty~~ dollars ~~for each~~
20 ~~offense~~, or imprisoned for not more than ~~thirty days~~ six months, or both. A minimum
21 condition of probation shall be that the offender participate in forty hours of
22 court-approved community service activities, or a combination of forty hours of
23 court-approved community service and attendance at a court-approved family
24 counseling program by both a parent or legal custodian and the minor.

25 * * *

26 C. The provisions of Subparagraph (A)(1)(b) of this Section shall not apply
27 to an immediate family member who lives in the household with the minor or other
28 relative who is supervised by the parent or legal custodian when visiting with the
29 minor.

1 D.(1) No parent or legal guardian shall be guilty of a violation of this Section
2 if, upon acquiring knowledge that the minor has undertaken acts as described in
3 ~~Paragraphs (1) and (2) of Subsection A~~ Paragraphs (A)(1) and (2) of this Section, the
4 parent or legal guardian seeks the assistance of local, parish, or state law
5 enforcement officials, school officials, social services officials, or other appropriate
6 authorities in either leading the child to modify his or her behavior, or in referring
7 the child to appropriate treatment or corrective facilities.

8 (2) When imposing the sentence for a person convicted of this offense, the
9 court shall consider the totality of the circumstances including the best interest of the
10 minor.

11 Section 2. Code of Criminal Procedure Article 211.3 is hereby enacted to read as
12 follows:

13 Art. 211.3. Summons by officer instead of arrest and booking; improper supervision
14 of a minor by parent or legal guardian

15 A. When a peace officer has reasonable grounds to believe that a person has
16 committed the offense of improper supervision of a minor by parent or legal
17 custodian as defined in R.S. 14:92.2, he may issue a written summons instead of
18 making an arrest unless any of the following conditions exist:

19 (1) The officer has reasonable grounds to believe that the person will not
20 appear upon summons.

21 (2) The officer has reasonable grounds to believe that the person will cause
22 injury to himself or another, will cause damage to property, or will continue in the
23 same or a similar offense unless immediately arrested and booked.

24 (3) It is necessary to book the person to comply with routine identification
25 procedures.

26 B. In any case in which a summons has been issued, a warrant of arrest may
27 later be issued in its place. If the offender fails to appear pursuant to the summons,
28 the court shall immediately issue a warrant for the arrest of the offender.

29 Section 3. R.S. 14:92.2(B)(4) is hereby repealed in its entirety.

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 47 Reengrossed

2019 Regular Session

Jenkins

Abstract: Amends the penalties for the crime of improper supervision of a minor and authorizes the issuance of a summons instead of arrest for persons who commit the offense.

Present law provides for the crime of improper supervision of a minor by a parent or legal custodian and present law penalties include a fine of not less than \$25 and not more than \$250 for each offense, imprisonment for not more than 30 days, or both.

Present law provides that whoever violates the crime of improper supervision of a minor by allowing the minor to be habitually absent or tardy from school without a valid excuse is subject to being fined not less than \$25 nor more than \$250 for each offense, imprisonment for not more than 30 days, or both. Present law requires a minimum condition of probation to be imposed, including school or community service activities.

Proposed law changes the penalties to a fine of not more than \$500, imprisonment for not more than six months, or both, and repeals the specific penalty for violation of improper supervision of a minor by allowing the minor to be habitually absent or tardy from school.

Proposed law directs the court when imposing the sentence for a person convicted of improper supervision of a minor to consider the totality of the circumstances including the best interest of the minor.

Proposed law authorizes a peace officer to issue a summons, in lieu of making an arrest, to any person who commits the offense of improper supervision of a minor unless:

- (1) The officer has reasonable grounds to believe that the person will not appear upon summons.
- (2) The officer has reasonable grounds to believe that the person will cause injury to himself or another, will cause damage to property, or will continue in the same or a similar offense unless immediately arrested and booked.
- (3) It is necessary to book the person to comply with routine identification procedures.

(Amends R.S. 14:92.2(A)(1) and (2), (B)(1), (C), and (D); Adds C.Cr.P. Art. 211.3; Repeals R.S. 14:92.2(B)(4))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Add provision that directs the court to consider the totality of the circumstances including the best interest of the minor.
3. Authorize, instead of require, the peace officer to issue a summons in lieu of making an arrest.