

## RÉSUMÉ DIGEST

ACT 147 (HB 158)

2019 Regular Session

White

Existing law requires all juvenile detention facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or public agency, to be licensed by the Dept. of Children and Family Services in accordance with rules promulgated by the department.

New law retains existing law and does all of the following:

- (1) Prohibits any juvenile detention facility from detaining a child who is alleged to have committed a delinquent act for any of the following purposes or reasons, except when the child is charged with the commission of a serious offense or has a history of adjudications based on prior serious offenses:
  - (a) To punish, treat, or rehabilitate the child.
  - (b) To allow the child's parent, guardian, or legal custodian to avoid the parent's, guardian's, or legal custodian's legal responsibilities relative to the child.
  - (c) Solely to satisfy a demand made by a victim, law enforcement, or the community that a child be detained.
  - (d) To facilitate further interrogation or investigation.
  - (e) To facilitate further assessment or evaluation.
  - (f) The unavailability of a more appropriate facility.
- (2) Provides that on and after July 1, 2020, a detention screening instrument shall be administered for any child placed in secure detention when taken into custody without a court order for alleged commission of a delinquent act.

With regard to the detention screening instrument, new law does all of the following:

- (a) Requires the La. Juvenile Detention Alternatives Initiative Statewide Leadership Collaborative (the JDAI Collaborative) to support the statewide implementation of detention screening instruments and the training process and requirements for those persons who will utilize the instruments.
- (b) Requires detention screening instruments to assess the child only to determine the child's risk to public safety while a current arrest is pending and the risk of failure to appear in court for the pending case.
- (c) Requires the detention screening instrument to be selected from tools that are being utilized as of Jan. 1, 2019, by local jurisdictions in the state. Further provides that a detention screening instrument being utilized by a jurisdiction as of Jan. 1, 2019, is sufficient to satisfy requirements of new law.
- (d) Requires a copy of the completed detention screening instrument to be provided to the juvenile detention facility for any child who is admitted to its custody and requires the facility to keep a record of the results of the instrument and other specified information.

Existing law (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.

New law retains existing law and adds that the officer, in lieu of taking the child into custody, may issue a verbal warning to the child.

Existing law (Ch.C. Art. 815) provides that if the child is taken into custody without a court order or warrant, 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 existing law. In this regard, existing law provides that the peace officer or an appropriate representative of the arresting agency shall have the authority and responsibility to transport the child to the appropriate place of detention.

With regard to the determination of the appropriate facility for the child, existing law does all of the following:

- (1) If the child has been taken into custody for the commission of a felony-grade delinquent act or of a misdemeanor-grade delinquent act based upon an offense against the person of another, requires the child to be taken to a juvenile detention center. For the commission of any other misdemeanor-grade delinquent act, existing law requires the child to be taken to either a shelter care facility or a juvenile detention center.
- (2) Provides that no judge shall order that a youth who is 13 years of age or older and who is taken into custody for a felony-grade delinquent act or for a misdemeanor-grade delinquent act based upon an offense against the person of another be placed in a shelter care facility.
- (3) Provides that no child under the age of 13 shall be detained in a juvenile detention center after being taken into custody for the alleged commission of a misdemeanor-grade delinquent act.

New law retains existing law and does all of the following:

- (1) Beginning July 1, 2020, requires the new law detention screening instrument to be administered to the child prior to transportation of the child to the appropriate place of detention or upon the child's arrival at the appropriate place of detention. If it cannot be completed at that time, new law provides that the instrument shall be completed as soon as possible after the child has been admitted into the detention center.
- (2) Requires the detention screening instrument to include consideration of certain factors including the child's current offense, history of prior delinquent acts, history of failure to appear, history of being a runaway, and any mitigating and aggravating circumstances.
- (3) If a child is detained after being taken into custody, requires the results of the detention screening instrument to be communicated to the court promptly upon its completion.
- (4) Authorizes, instead of requires, the child to be taken to a juvenile detention center for the commission of a felony-grade delinquent act or of a misdemeanor-grade delinquent act based upon an offense against the person of another.
- (5) Provides that for the commission of any other misdemeanor-grade delinquent act, the child may be taken to a juvenile detention center or shelter care facility or released to a parent or guardian upon the written promise of the parent or guardian to bring the child to court. If the child is not released to a parent or guardian, new law provides that a detention screening instrument shall be administered to the child.
- (6) Repeals the prior law provision which provided that no judge shall order that a youth who is 13 years of age or older and who is taken into custody for a felony-grade delinquent act or for a misdemeanor-grade delinquent act based upon an offense against the person of another be placed in a shelter care facility.

Existing law (Ch.C. Art. 817) provides that as soon as practicable after a child is received by a juvenile detention center or shelter care facility, the court or a probation officer employed and authorized by the court, upon determining it to be appropriate, shall release the child to the care of his parents or other relatives upon their written promise to bring him to court at such times as may be fixed by the court.

New law retains existing law but allows the court to authorize an individual or entity, who is not a probation officer, to make this determination.

New law authorizes each judicial district or parish to develop a program or programs, operated by a nonprofit or government entity, to serve as alternatives to secure detention of a child which shall be used only for a child taken into custody for the commission of a

delinquent act who is not released pursuant to existing law or new law. In this regard, new law does all of the following:

- (1) Provides that funding may be provided by any source, including through a contract with the office of juvenile justice. Any program funded by the office of juvenile justice shall comply with any requirements established by the office of juvenile justice for the purpose of receiving and retaining such funding.
- (2) Provides that an alternative to detention program shall be considered a form of detention and the time for persons set forth in existing law regarding the answering of a delinquency petition and for conducting an adjudication hearing shall apply unless waived by the child.
- (3) An authorized individual acting in good faith shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of a child's release to an alternative to detention program.

Existing law (R.S. 15:609) provides that any person who is arrested for a felony or certain other specified offenses, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses, shall have a DNA sample drawn or taken at the same time he is fingerprinted pursuant to the booking procedure. In this regard, existing law further provides that this requirement shall also apply to a juvenile who is arrested for a specified offense or adjudicated delinquent for the commission of a felony-grade delinquent act, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act.

New law retains existing law but adds that when a peace officer elects to issue a written summons to a person in lieu of arrest pursuant to existing law (C.Cr.P. Art. 211) or to counsel and release a child pursuant to existing law (Ch.C. Art. 814), the peace officer is not required to draw or take a DNA sample from the person or child.

New law shall be cited and referred to as "Solan's Law".

Effective August 1, 2019.

(Amends R.S. 15:1110(B), (C), (E), and (F) and Ch.C. Arts. 814(A) and (B)(2), 815, and 817(A); Adds R.S. 15:609(A)(3) and 1110(D), (G), and (H) and Ch.C. Arts. 815.1 and 826(E))