

2016 Regular Session

SENATE BILL NO. 324

BY SENATOR MORRELL

JUVENILE JUSTICE. Raises the age for consideration as a juvenile in the criminal justice system and creates the Louisiana Juvenile Jurisdiction Planning and Implementation Committee. (gov sig)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact Children's Code Arts. 305(A)(2), 306(D), and 804(1) and to enact Chapter 13-B of Title 15 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 15:1441 and 1442 and Children's Code Art. 306(G), relative to juvenile jurisdiction; to provide for a child who commits a delinquent act before a certain age; to provide for transfer of juveniles to adult detention centers pending trial; to create the Juvenile Jurisdiction Planning and Implementation Committee; to provide for membership, authority, duties, and responsibilities; to provide for directives to the Louisiana State Law Institute, Louisiana Judicial Council, and Department of Children and Family Services; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 13-B of Title 15 of the Louisiana Revised Statutes of 1950, comprised of R.S. 15:1441 and 1442, is hereby enacted to read as follows:

CHAPTER 13-B. JUVENILE JURISDICTION

PLANNING AND IMPLEMENTATION ACT

§1441. Short title

1 This Chapter shall be known and may be cited as the "Juvenile
2 Jurisdiction Planning and Implementation Act".

3 §1442. Louisiana Juvenile Jurisdiction Planning Implementation Committee;
4 composition; authority; responsibilities

5 A. The Louisiana Juvenile Jurisdiction Planning and Implementation
6 Committee, hereafter referred to as the "committee", is hereby created as a
7 committee of the Juvenile Justice Reform Act Implementation Commission
8 established pursuant to R.S. 46:2751 et seq.

9 B. The committee shall have the following authority, duties, and
10 responsibilities:

11 (1) Not later than January 1, 2017, the committee shall develop and
12 submit to the commissioner of administration, the president of the Senate, and
13 the speaker of the House of Representatives a plan for full implementation of
14 the provisions of this Chapter. The plan shall include recommendations for
15 changes required in the juvenile justice system to expand jurisdiction to include
16 persons seventeen years of age. These recommendations may include the
17 following items:

18 (a) The development of programs and policies that can safely reduce the
19 number of youth in the juvenile justice system, including expanded use of
20 diversion where appropriate; development and use of civil citation programs;
21 use of evidence-based and promising services wherever possible; and
22 reinvestment programs targeting the expanded use of community-based
23 alternatives to secure, nonsecure, and pre-disposition custody.

24 (b) The development of comprehensive projections to determine the
25 long-term distribution of placement capacity for youth in the juvenile justice
26 system.

27 (c) An analysis of the impact of the expansion of juvenile jurisdiction to
28 persons seventeen years of age on state agencies and a determination of which
29 state agencies shall be responsible for providing relevant services to juveniles,

1 including but not limited to mental health and substance abuse services,
2 housing, education, and employment.

3 (2) Not later than April 1, 2017, and quarterly thereafter, the committee
4 shall submit a written status report to the commissioner of administration, the
5 president of the Senate, and the speaker of the House of Representatives on
6 implementation of the plan as provided in this Subsection.

7 (3) The committee shall have such powers, authority, and prerogatives
8 as provided for the Juvenile Justice Reform Act Implementation Commission
9 pursuant to R.S. 46:2754, et seq.

10 C. The committee shall be composed of the following members:

11 (1) Each member of the Juvenile Justice Reform Act Implementation
12 Commission shall be an ex officio member.

13 (2) Two sitting Louisiana judges: one appointed by the president of the
14 Louisiana District Judges' Association and one appointed by the president of the
15 Louisiana Committee of Juvenile and Family Court Judges.

16 (3) The deputy secretary of the office of juvenile justice, or his designee.

17 (4) The superintendent of the state Department of Education, or his
18 designee.

19 (5) The executive director of the Louisiana Sheriffs' Association, or his
20 designee.

21 (6) The president of the Louisiana Juvenile Detention Association, or his
22 designee.

23 (7) An attorney appointed by the Louisiana Public Defender Board that
24 is an expert in juvenile defense.

25 (8) The executive director of the governor's Children's Cabinet.

26 (9) The director of the Institute for Public Health and Justice, or his
27 designee.

28 (10) Two child or youth advocates, one appointed by the president pro
29 tempore of the Senate and one appointed by the speaker pro tempore of the

1 House of Representatives.

2 (11) Two parents of children who have been involved in the juvenile
3 justice system, one appointed by the executive director of the Cecil J. Picard
4 Center for Child Development and Lifelong Learning and one appointed by the
5 executive director of the Children's Coalition for Northeast Louisiana.

6 (12) An expert in juvenile justice, appointed by the chair of the
7 Children's Code Committee of the Louisiana State Law Institute.

8 (13) Two youth representatives who have been prosecuted in criminal
9 court at the age of seventeen, one appointed by the executive director of
10 LouisianaChildren.org and one appointed by the executive director of the
11 Family and Youth Counseling Agency of Lake Charles, Louisiana.

12 (14) A representative of the Police Jury Association of Louisiana.

13 (15) An attorney appointed by the Louisiana District Attorneys
14 Association that is an expert in juvenile prosecution.

15 D.(1) All appointments to the committee shall be made not later than
16 thirty days after August 1, 2016. Any vacancy on the committee shall be filled
17 by the respective appointing authority.

18 (2) The executive director of the governor's Children's Cabinet shall
19 serve as chair of the committee and shall convene the committee no later than
20 sixty days after August 1, 2016.

21 (3) The members of the committee shall serve without compensation,
22 except the compensation to which they may be individually entitled to as a
23 member or employee of their respective organization or agency.

24 (4) A majority of the total committee membership shall constitute a
25 quorum and any official action by the committee shall require an affirmative
26 vote of a majority of the quorum present and voting.

27 (5) The committee shall conduct meetings as it deems necessary to fully
28 and effectively perform its duties and accomplish the objectives and purposes
29 of this Chapter and may receive testimony and information relative to any of

1 **the subjects enumerated in this Chapter.**

2 **(6) The committee shall terminate on December 31, 2020.**

3 Section 2. Children's Code Art. 305(A)(2), 306(D), and 804(1) are hereby amended
4 and reenacted and Children's Code Art. 306(G) is hereby enacted to read as follows:

5 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
6 jurisdiction over children; when acquired

7 A.(1) * * *

8 (2) Thereafter, the child is subject to the exclusive jurisdiction of the
9 appropriate court exercising criminal jurisdiction for all subsequent procedures,
10 including the review of bail applications, and the ~~child shall be transferred forthwith~~
11 ~~to the appropriate adult facility for detention prior to his trial as an adult~~ **court**
12 **exercising criminal jurisdiction may order that the child be transferred to the**
13 **appropriate adult facility for detention prior to his trial as an adult.**

14 * * *

15 Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

16 * * *

17 D. If at the conclusion of the continued custody hearing, the court determines
18 that the child meets the age requirements and that there is probable cause that the
19 child has committed one of the offenses enumerated in Article 305, the court shall
20 order him held for trial as an adult for the appropriate court of criminal jurisdiction.
21 The ~~child shall~~ **appropriate court of criminal jurisdiction may** thereafter **order**
22 **that the child** be held in any facility used for the pretrial detention of accused adults
23 and **the child** shall apply to the appropriate court of criminal jurisdiction for a
24 preliminary hearing, bail, and for any other rights to which he may be entitled under
25 the Code of Criminal Procedure.

26 * * *

27 **G. Notwithstanding any provision of law to the contrary, a child who is**
28 **subject to criminal jurisdiction pursuant to Article 305 shall not be detained**
29 **prior to trial in a juvenile detention facility after reaching the age of eighteen**

1 if the governing authority with funding responsibility for the juvenile detention
 2 facility objects to such detention, unless the judge with criminal jurisdiction
 3 orders the child be detained in the juvenile detention facility.

4 * * *

5 Art. 804. Definitions

6 As used in this Title:

7 (1)(a)"Child" means any person under the age of twenty-one, including an
 8 emancipated minor, who commits a delinquent act before attaining seventeen years
 9 of age.

10 (b) After June 30, 2018, "child" means any person under the age of
 11 twenty-one, including an emancipated minor, who commits a delinquent act on
 12 or after July 1, 2018, when the act is not a crime of violence as defined in R.S.
 13 14:2, and occurs before the person attains eighteen years of age.

14 (c)(i) After June 30, 2020, "child" means any person under the age of
 15 twenty-one, including an emancipated minor, who commits a delinquent act on
 16 or after July 1, 2020, and before the person attains eighteen years of age.

17 (ii) Notwithstanding Item (i) of this Subparagraph, a child who is over
 18 the age of seventeen shall be subject to criminal jurisdiction pursuant to Article
 19 305 and transferred pursuant to Article 857.

20 * * *

21 Section 3.(A) The Louisiana State Law Institute is hereby directed to study, and to
 22 recommend to the Legislature in a written report, such other amendments and additions to
 23 the Louisiana Children's Code, Louisiana Code of Criminal Procedure, and the Louisiana
 24 Revised Statutes as may be appropriate to effectuate the purpose of this Act to include
 25 seventeen-year-olds in the juvenile justice system. The Louisiana State Law Institute shall
 26 make its report, and shall recommend such legislation as it may deem appropriate, to the
 27 Legislature by March 1, 2017.

28 (B) The Louisiana Judicial Council is hereby requested to study, and to recommend
 29 to the Louisiana Supreme Court, such amendments and additions to Louisiana's Rules of

1 Court as may be appropriate to effectuate the purpose of this Act to include
2 seventeen-year-olds in the juvenile justice system.

3 (C) The Department of Children and Family Services is hereby directed to study, and
4 to recommend for promulgation into law through the Administrative Procedures Act, such
5 new or amended regulations for the safe operation of the state's juvenile detention centers
6 as may be appropriate given the inclusion of seventeen-year-olds in the juvenile justice
7 system.

8 Section 4. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 effective on the day following such approval.

13 Section 5. This Act shall be known as the "Raise the Age Louisiana Act of 2016".

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Dawn Romero Watson.

DIGEST

SB 324 Engrossed 2016 Regular Session Morrell

Present law provides that a child age 15 or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnaping, is subject to the exclusive jurisdiction of the juvenile court until either:

- (a) An indictment charging one of these offenses is returned.
- (b) The juvenile court holds a continued custody hearing and finds probable cause that he committed one of these offenses, whichever occurs first. Provides that during the hearing, when the child is charged with aggravated or first degree rape, the court is to inform him that if convicted he will be required to register as a sex offender for life.

Present law provides that thereafter, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and requires that the child be transferred forthwith to the appropriate adult facility for detention prior to his trial as an adult.

Proposed law retains present law provisions but allows the court discretion as to whether to transfer the child to an adult facility for detention prior to trial as an adult. However, provides that a child who is subject to criminal jurisdiction as an adult shall not be detained prior to trial in a juvenile detention facility after reaching the age of 18 if the governing authority with funding responsibility for the juvenile detention facility objects to the detention, unless the judge with the criminal jurisdiction orders the child to be detained in the juvenile detention facility.

Present law defines a child, for purposes of delinquency, to be any person under the age of 21, including an emancipated minor, who commits a delinquent act before attaining the age of 17.

Proposed law retains present law. However, provides that after June 30, 2018, child means any person under the age of 21, including an emancipated minor, who commits a delinquent act on or after July 1, 2018, when the act is not a crime of violence and occurs before the person attains 18 years of age. Further provides that after June 30, 2020, child means any person under the age of 21, including an emancipated minor, who commits a delinquent act on or after July 1, 2020, and before the person attains 18 years of age.

Proposed law creates the Louisiana Juvenile Jurisdiction Planning and Implementation Committee as a committee of the Juvenile Justice Reform Act Implementation Commission and provides for the committee to have the following authority, duties and responsibilities:

- (1) Prior to January 1, 2017, to develop and submit to the commissioner of administration, the president of the Senate, and the speaker of the House of Representatives a plan for full implementation of the provisions of proposed law. Requires the plan to include recommendations for changes required in the juvenile justice system to expand jurisdiction to include persons 17 years of age. Provides the plan may include:
 - (a) The development of programs and policies that can safely reduce the number of youth in the juvenile justice system, including expanded use of diversion where appropriate; development and use of civil citation programs; use of evidence-based and promising services wherever possible; and reinvestment programs targeting the expanded use of community-based alternatives to secure, nonsecure, and pre-disposition custody.
 - (b) The development of comprehensive projections to determine the long-term distribution of placement capacity for youth in the juvenile justice system.
 - (c) An analysis of the impact of the expansion of juvenile jurisdiction to persons 17 years of age on state agencies and a determination of which state agencies shall be responsible for providing relevant services to juveniles, including but not limited to mental health and substance abuse services, housing, education and employment.
- (2) No later than April 1, 2017, and quarterly thereafter, to submit a written status report to the commissioner of administration, the president of the Senate, and the speaker of the House of Representatives on implementation of its plan.
- (3) To have such powers, authority and prerogatives as that provided in present law for the Juvenile Justice Reform Act Implementation Commission.

Proposed law provides that the membership of the committee shall be as follows:

- (1) Each member of the Juvenile Justice Reform Act Implementation Commission which includes:
 - (a) The chief justice of the Louisiana Supreme Court or an association justice as appointed by the chief justice.
 - (b) One senator appointed by the president of the Senate.
 - (c) One representative appointed by the speaker of the House of Representatives.
 - (d) The commissioner of administration.

- (e) The vice president for Administration and Management at Southern University or his designee.
- (f) One representative appointed by the Louisiana District Attorneys Association.
- (g) One representative appointed by the state public defender.
- (2) Two sitting judges: one appointed by the president of the Louisiana District Judges' Association and one appointed by the president of the Louisiana Committee of Juvenile and Family Court Judges.
- (3) The deputy secretary of the office of juvenile justice or his designee.
- (4) The superintendent of the state Department of Education or his designee.
- (5) The executive director of the Louisiana Sheriffs' Association or his designee.
- (6) The president of the Louisiana Juvenile Detention Association or his designee.
- (7) An attorney appointed by the Louisiana Public Defender Board.
- (8) The executive director of the governor's Children's Cabinet.
- (9) The director of the Institute for Public Health and Justice or his designee.
- (10) Two child or youth advocates, one appointed by the president pro tempore of the Senate and one appointed by the speaker pro tempore of the House of Representatives.
- (11) Two parents of children who have been involved in the juvenile justice system, one appointed by the executive director of the Cecil J. Picard Center for Child Development and Lifelong Learning and one appointed by the executive director of the Children's Coalition for Northeast Louisiana.
- (12) An expert in juvenile justice, appointed by the chair of the Children's Code Committee of the Louisiana State Law Institute.
- (13) Two youth representatives who have been prosecuted in criminal court at the age of seventeen, one appointed by the executive director of LouisianaChildren.org and one appointed by the executive director of the Family and Youth Counseling Agency of Lake Charles, Louisiana.
- (14) A representative of the Police Jury Association of Louisiana.
- (15) An attorney appointed by the Louisiana District Attorneys Association that is an expert in juvenile prosecution.

Proposed law requires appointments to the committee to be made by August 31, 2016. Provides that the executive director of the governor's Children's Cabinet shall serve as chair and call the first meeting by September 29, 2016. Provides that the members serve without compensation except the compensation to which they may be individually entitled as a member or employee of their respective organization or agency. Provides a majority of membership constitutes a quorum and any official action of the committee requires an affirmative vote of a majority of the quorum present and voting. Provides that the committee terminates on December 31, 2020.

Directs the Louisiana State Law Institute to study and to recommend to the legislature by

March 1, 2017, other amendments and addition to the law as may be appropriate to effectuate the purpose of including 17 year olds in the juvenile justice system.

Request the Louisiana Judicial Council to study and to recommend to the Supreme Court amendments to Louisiana's Rules of Court as appropriate to effectuate the purpose of including 17 year olds in the juvenile justice system.

Directs the Department of Children and Family Services to study and to recommend new or amended rules as appropriate for the safe operation of the state's juvenile detention centers with the inclusion of 17 year olds in the juvenile justice system.

Provides that this Act shall be known as the "Raise the Age Louisiana Act of 2016."

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends Ch. C. Arts. 305(A)(2), 306(D), and 804(1); adds R.S. 15:1441-1442 and Ch. C. Art. 306(G))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Deletes provisions relative to legislative findings and declarations.
2. Adds the following to the membership of the committee: the vice president for Administration and Management at Southern University; the executive director of the governor's Children's Cabinet; a representative of the Police Jury Association of Louisiana; a representative appointed by the Louisiana District Attorneys Association; and an attorney appointed by the Louisiana District Attorneys Association that is an expert in juvenile prosecution.
3. Changes chair of committee from commissioner of administration to executive director of governor's Children's Cabinet.
4. Adds changes to proposed law definition of "child" for purposes of juvenile justice matters from below the age of 18 effective immediately to a two-step progression over the next four years.
5. Adds authority for a local governing authority with funding responsibility for a juvenile detention facility to object to detention of a child over the age of 18 in such juvenile detention facility in certain circumstances.
6. Makes technical changes.