

Regular Session, 2010

HOUSE BILL NO. 1106

BY REPRESENTATIVES WHITE AND RICHARDSON

JUVENILE PROCEDURE: Provides relative to juvenile proceedings

1 AN ACT

2 To amend and reenact Children's Code Article 305(B)(4) and (E) and Code of Criminal  
3 Procedure Article 644.1, relative to juvenile proceedings; to amend provisions  
4 relative to the divestiture of juvenile court jurisdiction; to provide relative to the  
5 jurisdiction over mental capacity determinations; to provide relative to mental  
6 capacity determination proceedings; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Article 305(B)(4) and (E) are hereby amended and  
9 reenacted to read as follows:

10 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court  
11 jurisdiction over children; when acquired

12 \* \* \*

13 B.

14 \* \* \*

15 (4) If an indictment is returned or a bill of information is filed, the child is  
16 subject to the exclusive jurisdiction of the appropriate court exercising criminal  
17 jurisdiction for all subsequent procedures, including the review of bail applications,  
18 and the district court may order that the child ~~shall~~ be transferred ~~forthwith~~ to the  
19 appropriate adult facility for detention prior to his trial as an adult.

20 \* \* \*

21 E.(1) If a competency or sanity examination is ordered, except for the filing  
22 of a delinquency petition, the return of an indictment, or the filing of a bill of

1 information, no further steps to prosecute the child in a the court exercising criminal  
2 jurisdiction shall occur ~~until~~: until the proper court exercising jurisdiction determines  
3 the child's mental capacity to proceed.

4 ~~(a) Counsel is appointed for the child and notified in accordance with Article~~  
5 ~~809; and~~

6 ~~(b) The court determines mental capacity to proceed in accordance with~~  
7 ~~Chapter 7 of Title VIII.~~

8 (2) When an indictment has been returned or a bill of information has been  
9 filed pursuant to this Subsection, the district court exercising criminal jurisdiction  
10 shall be the proper court to determine the child's mental capacity to proceed. In all  
11 other instances, the juvenile court shall be the proper court to make this  
12 determination. ~~When a child has been charged with one or more of the crimes listed~~  
13 ~~in Article 857, has reached twenty-one years of age and is incompetent, the court on~~  
14 ~~its own motion or on the motion of the district attorney may conduct a hearing to~~  
15 ~~consider whether to transfer the child for further proceedings to the appropriate court~~  
16 ~~exercising criminal jurisdiction.~~

17 Section 2. Code of Criminal Procedure Article 644.1 is hereby amended and  
18 reenacted to read as follows:

19 Art. 644.1. Sanity proceedings for juvenile defendants transferred to criminal court

20 A. Any juvenile transferred for criminal trial in accordance with Articles 305  
21 and 857 of the ~~Louisiana~~ Children's Code may seek a special sanity hearing. ~~That~~  
22 ~~hearing~~ which shall be conducted in accordance with Articles 833 through 836 of the  
23 ~~Louisiana~~ Children's Code.

24 B. The determination of the juvenile's capacity or incapacity to proceed to  
25 trial shall be governed by the provisions of Articles 837 through 838 of the  
26 Children's Code. ~~The~~ In all other cases, the provisions of Code of Criminal  
27 Procedure Articles 648 through 649.1 shall govern the determination of capacity or  
28 incapacity to proceed to trial.

- 1           C. When a transferred juvenile seeks a special sanity hearing pursuant to  
 2           Paragraph A of this Article, the court shall inform the sheriff of the need to segregate  
 3           the juvenile from the general population while the sanity determination is pending.
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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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White

HB No. 1106

**Abstract:** Provides relative to the divestiture of juvenile court jurisdiction and jurisdiction over mental capacity determinations.

Present law provides that a child who is 15 years of age or older at the time of the commission of certain enumerated offenses is subject to the exclusive jurisdiction of the juvenile court until either an indictment charging one of those offenses is returned, or the juvenile court finds probable cause that he committed one of those offenses, whichever occurs first.

Present law provides that if an indictment is returned or a bill of information is filed, 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 the child shall be transferred to the appropriate adult facility for detention prior to his trial as an adult.

Present law provides that if a competency or sanity examination is ordered, the criminal proceedings are stayed except for the filing of a delinquency petition, and no further steps to prosecute the child shall occur until counsel is appointed for the child and notified, and the court determines mental capacity to proceed.

Proposed law amends present law and provides that the district court may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult.

Proposed law amends present law and provides that if a competency or sanity examination is ordered, the criminal proceedings are stayed except for the filing of a delinquency petition, the return of an indictment, or the filing of a bill of information, and no further steps to prosecute the child shall occur until the child's mental capacity to proceed has been determined.

Proposed law provides that when an indictment has been returned or a bill of information is filed, the district court exercising criminal jurisdiction shall be the proper court to determine the child's mental capacity to proceed, and provides that in all other instances, the juvenile court shall be the proper court to make this determination.

Present law provides that when a child has been charged with certain crimes and has reached 21 years of age and is incompetent, the court on its own motion or on the motion of the district attorney may conduct a hearing to consider whether to transfer the child for further proceedings to the appropriate court exercising criminal jurisdiction.

Proposed law repeals this provision of present law.

Present law provides that any juvenile transferred for criminal trial in accordance with Articles 305 and 857 of the Children's Code may seek a special sanity hearing which shall

be conducted in accordance with Articles 833 through 836 of the Children's Code and provides that the provisions of Code of Criminal Procedure Articles 648 through 649.1 shall govern the determination of capacity or incapacity to proceed to trial.

Proposed law retains present law and further provides that the determination of the juvenile's capacity to proceed to trial shall be governed by the provisions of Articles 837 through 838 of the Children's Code and provides that when a transferred juvenile has sought a special sanity hearing, the court shall inform the sheriff of the need to segregate the juvenile from the general population while the sanity determination is pending.

(Amends Ch.C. Art. 305(B)(4) and (E) and C.Cr.P. Art. 644.1)

Summary of Amendments Adopted by House

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

1. Added provision to provide that the court may order that the child be transferred to an adult facility for detention prior to his trial as an adult.
2. Added language providing that certain provisions of law shall govern sanity proceedings for juveniles. Required the court to inform sheriffs of the need to segregate juveniles from the general population while a sanity determination is pending.