

Regular Session, 2012  
HOUSE BILL NO. 202  
BY REPRESENTATIVE RICHARDSON

# ACT No. 698

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

\* \* \*

B.

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(4) 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 district court may order that the child shall be transferred ~~forthwith~~ to the appropriate adult facility for detention prior to his trial as an adult.

\* \* \*

1                   E.(1) If a competency or sanity examination is ordered, except for the filing  
 2                   of a delinquency petition, the return of an indictment, or the filing of a bill of  
 3                   information, no further steps to prosecute the child ~~in a court exercising criminal~~  
 4                   jurisdiction shall occur ~~until~~: until the court exercising criminal jurisdiction appoints  
 5                   counsel for the child and provides notification in accordance with Article 809 and  
 6                   determines the child's mental capacity to proceed.

7                   ~~(a) Counsel is appointed for the child and notified in accordance with Article~~  
 8                   ~~809; and~~

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

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

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

22                  Art. 644.1. Sanity proceedings for juvenile defendants transferred to criminal court  
 23                  A. Any juvenile transferred for criminal trial in accordance with Articles 305  
 24                  and 857 of the Louisiana Children's Code may seek a special sanity hearing. ~~That~~  
 25                  hearing which shall be conducted in accordance with Articles 833 through 836 of the  
 26                  Louisiana Children's Code.

1                   B. The determination of the juvenile's capacity or incapacity to proceed to  
2                   trial shall be governed by the provisions of Articles 837 and 838 of the Children's  
3                   Code. In all other cases, the provisions of Code of Criminal Procedure Articles 648  
4                   through 649.1 shall govern the determination of capacity or incapacity to proceed to  
5                   trial.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_